

 ORIGINAL

Liam O'Neil-Barrett #11123024
 Oregon State Correctional Institution
 3405 Deer Park Drive S.E.
 Salem, Oregon 97310

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF OREGON

Liam O'Neil-Barrett #11123024,
 Plaintiff, Pro Se,

Case No. 6:20-cv-01465-MC

v.

CIVIL COMPLAINT

GLOBAL TEL*LINK CORP.,
 PINNACLE PUBLIC SERVICES, LLC, DBA
 TELMATE,

Defendant.

COMPLAINT

Plaintiff alleges as follows:

SUMMARY OF CASE

1) This action is brought by Plaintiff, Liam O'Neil-Barrett, an Oregon citizen incarcerated in the Oregon Department of Correction (ODOC), pursuant to 42 USC §1983, 47 USC § 201 et seq. and ORS 646.605 to ORS 646.656 (Oregon Unfair Trade Practices Act) to determine his rights, status, and other legal relations. Plaintiff is asking the court to declare that that defendants violated his rights by taking of property without just compensation in violation of the Fifth Amendment to the US Constitution, unjust enrichment, and conversion by taking of property without just compensation.

JURISDICTION

2) Jurisdiction is proper in this Court by 28 USC § 1331 because this matter involves federal questions whether there are violations of 42 USC § 1983 and the Court has supplemental jurisdiction over Plaintiff's state Law claims because they arise from a common nucleus of

operative facts and are such that the Plaintiff would expect to try them in one judicial proceeding.

VENUE

3) Venue is proper in this judicial district pursuant to 28 USC § 1391 (b) in that all Defendants transact substantial business within, and are subject to personal jurisdiction, in that this judicial District and thus “reside” in this District and because a substantial part of the events giving rise to the claims asserted herein took place in this judicial District.

PARTIES

4) Plaintiff, Liam O’Neil-Barrett is an Oregon citizen and a prisoner currently housed in the Oregon Department of Corrections (ODOC) at the Oregon State Correctional Institution (OSCI) located at **3405 Deer Park Drive S.E., Salem, Oregon 97310**. At all times alleged in this complaint Plaintiff was housed at OSCI, in Marion County.

5) Defendant Pinnacle Public Services, LLC, DBA Telmate, (hereafter referred to as Telmate) is a telecommunications provider who contracts with prisons to provide communications services for inmates and based in Ontario, Oregon and located at: **1108 SE 6th Street, Ontario, Oregon 97914**. At all times relevant to the facts alleged Defendant Telmate has acted, and continues to act, under the color of state law. It is sued in its individual and official capacity.

6) Defendant Telmate, LLC (hereafter referred to as Telmate) is a telecommunications provider who contracts with prisons to provide communications services for inmates and based in Ontario, Oregon and located at: **1108 SE 6th Street, Ontario, Oregon 97914**. At all times relevant to the facts alleged Defendant Telmate has acted, and continues to act, under the color of state law. It is sued in its individual and official capacity.

7) Defendant GLOBAL TEL*LINK CORP., DBA TELMATE, (hereafter referred to as

1 Telmate) is a telecommunications provider who contracts with prisons to provide
2 communications services for inmates and based in Ontario, Oregon and located at: **3120**
3 **Fairview Park Dr. #300, Falls Church, VA 22042**. At all times relevant to the facts alleged
4 Defendant GLOBAL TEL*LINK CORP has acted, and continues to act, under the color of state
5 law. It is sued in its individual and official capacity.

6 **8)** Defendants are referred collectively as “the Defendants” and/or as “Telmate.

7 **STATEMENT OF FACTS COMMON TO ALL CLAIMS**

8 **9)** Defendant Telmate is a telecommunications provider who contracts with prisons to
9 provide communications services for inmates and based in Ontario, Oregon.

10 **10)** Defendant Telmate contracted with the Oregon Department of Correction (ODOC) to
11 provide for inmate and associated inmate monitoring and recording equipment and services (See
12 Attachment No. 1, referred to as “ITS Contract”).

13 **11)** As part of the ITS Contract the laws of the State of Oregon governed how the ITS
14 Contract is interpreted and construed and that any dispute would be brought solely and
15 exclusively within the Circuit Court of Marion County for the State of Oregon. Defendant
16 Telmate consented to the Personam Jurisdiction of this court. (Attachment No. 1, pg. 16).

17 **12)** As part of the ITS Contract Defendant Telmate agreed to comply with all federal, state
18 and local laws, regulations, executive orders, and ordinances. (Attachment No. 1, pg. 17).

19 **13)** As part of the ITS Contract Defendant Telmate agreed to provide a Kiosk at each ODOC
20 facility to provide, as is relevant to this case: (a) electronic messaging (eMessaging or “texting”)
21 and photographs; (b) a secure website for friends and family to send electronic messages to
22 inmates with customizable word, sender and recipient filters to allow eMessages to be
23 automatically identified and rated by ODOC investigators; (c) Provide an interface for ODOC
24 security staff to review all messages and photos for approvals or denials, and audit trail. Provide

the Data Detective reporting interface to allow visual browsing by ODOC security staff of the relationships between Inmates' depositors, and individuals the Inmate communicates with via Secure Mail; and (d) provide an archive for the life of the contract for reporting and retrieval by the ODOC.

14) As part of the ITS Defendant Telmate agreed to provide a Kiosk at each ODOC facility to provide, as is relevant to this case: (a) a "handheld device" ("tablet") capable of downloading photo's, email, limited educational content and rehabilitative programming. (Attachment No. 1, pg. 33-34).

15) The defendants acted in concert with the ODOC to provide the services to inmates in the ODOC.

16) The issues herein arise from a disagreement with the STATE OF OREGON by and through the DOC, TELMATE,¹ and Defendant GLOBAL TEL*LINK, LLC.

17) The representatives from the STATE OF OREGON by and through the DOC² and Telmate, a then Limited Liability Corporation in the State of Oregon at 1108 SE 6th Street, Ontario, Oregon 97914,³ initially signed a contract on April 30, 2012 to offer various services to inmates incarcerated and housed within the DOC, chief among them, and as relevant here, the

¹ To the best of my knowledge and belief TELMATE, LLC (a subsidiary of Pinnacle Public Services) was sold to GLOBAL TEL*LINK, LLC headquartered in Falls Church, Virginia, in or about September 2017, a fact that Defendants failed to disclose to me.

² The DOC sent out requests for bids of services discussed herein: "ODOC issues Request for Proposals #3999 ("RFP"), Inmate Payphone and Associated Inmate Monitoring and Recording Equipment and Services" and eventually chose "the Contractor . . . as most advantageous to ODOC following a competitive evaluation process . . ." (Attachment No. 1, p 4)(Contract #3999);

³ The Contract notes that the Contractor (i.e., Telmate) "is either domiciled in or registered to do business in the State of Oregon . . ." (Attachment No. 1, p 17). Further, "[a]ll voicemail requests are to be monitored by Contractor's customer service representatives located in Ontario, Oregon." (Attachment No. 1, p 31).

ability to purchase photos and eMessages on the Tablet and Kiosk and to receive photos and messages on the tablet and Kiosk.⁴

18) The Contract defines “Subcontractor” as “an individual or entity performing all or part of the services under this Contract, under a separate agreement with the Contractor. The terms Subcontractor and Subcontractors mean subcontractor(s) in any tier. For the purpose of this Contract, the term Subcontractor relates to those subcontractors that are related directly to ensuring the successful operation of the ITS.” (Attachment No. 1, p 7).

19) The Contract defines “Services” as “all work that Contractor performs under this ITS Contract as specified in Attachment 3, any associated service, goods, and deliverables including but not limited to, equipment for complete Turn Key system, ITS installation and maintenance,

⁴ Telmate and the STATE OF OREGON entered into a

CONTRACT FOR INMATE PAYPHONE AND ASSOCIATED INMATE MONITORING AND RECORDING EQUIPMENT AND SERVICES (THE “ITS CONTRACT” OR “CONTRACT”) IS BETWEEN THE STATE OF OREGON, ACTING BY AND THROUGH ITS DEPARTMENT OF CORRECTIONS (“ODOC”), 3601 STATE STREET SUITE 280 SALEM, OR 97301-5780,

and

Pinnacle Public Services LLC
a Limited Liability Corporation in the State of Oregon
1108 SE 6th Street, Ontario, Oregon 97914
Telephone: (800)295-5510, fax (208)379-7498
Kevin O’Neil, President
Federal Employer Tax Identification Number: On file at ODOC
State Tax Identification Number: On file at ODOC

together with Telmate LLC hereinafter collectively called “Contractor.”

(Attachment No. 1, p 4). “ODOC, through its collaborative relationship with the Contractor as established under this Contract, ODOC and the Contractor agree[d]” to the Contract in its entirety. (Attachment No. 1, p 4); (*Id.* at p 22)(“ODOC and Contractor are the only parties to this Contract and are the only parties entitled to enforce the terms of this ITS Contract . . .”). Notably, the Contract also defines Telmate LLC as not only a “Contractor” but also as an “expressly identified . . . beneficiary.” (Attachment No. 1, p 22).

payphones, Enhanced Services, kiosks, and ITS training.” (Attachment No. 1,p 7).⁵

20) The Contract defines “Enhanced Services” as “goods and services other than those required by the ITS provided by the Contractor to ODOC inmates including but not limited to, electronic mail, video messaging, inmate handheld devices sold by ODOC commissary, the ability to download materials to handheld devices, canteen, kiosks, commissary and trust

⁵ On the subject of kiosks the Contract states, in part:

B. Kiosks

Contractor shall provide the following kiosk types to each ODOC institution. ODOC staff will determine the number and location of kiosks at the time of implementation. Additional kiosks may be added or removed during the life of the Contract upon written authorization from ODOC. Changes in the number of kiosks does not require an amendment.

1. Inmate/Intake Kiosk

a. Install KCN Edge kiosks with satellite connectivity packages for music selection and downloading within each Facility.

....

c. Provide commissary ordering, collection and processing of order requests.

....

3. Inmate Music Kiosk and Handheld Device

a. Music Warden kiosk to be located in all Facilities allowing ODOC inmates to view music catalogs/library of 6 million individual songs from Universal, Sony, EMI, Warner, and independent artists from the independent Online Distribution Alliance, and download music selections to an inmate’s handheld device. The music library must contain filters for ODOC security staff to remove explicit content.

b. The handheld device must be manufactured with a clear plastic casing with no recording capability or moving parts. The handheld device must have built in theft protection and allow ODOC security staff to disable an inmate’s music player.

c. The handheld device must be capable of downloading photos, email, educational content and rehabilitative programming.

d. Contractor shall provide all handheld devices and downloads sold to ODOC inmates through the ODOC commissary.

1 programs, and e-messaging. (Attachment No. 1, p 27).

2 **21)** The Contract defines “Equipment” as “all equipment installed or made available by
3 Contractor in connection with the delivery of the Services, including, but not limited to, . . .
4 kiosks, . . . multimedia players . . . “ (Attachment No. 1, p 27).

5 **22)** On or about November 29, 2018, the Oregon Department of Administrative Services
6 (DAS), as an Oregon state contracting agency issued a request for proposals (RFP). (Attachment
7 No. 2).

8 **23)** The Communication RFP sought to “acquire a comprehensive solution for inmate
9 communication and related service (electronic entertainment and education), including,
10 hardware, software, training and services to support the Agency’s inmate communication
11 requirements and ensure uninterrupted inmate communication services across the fourteen (14)
12 Agency correctional facilities.” (Attachment No. 2 at § 2.4).

13 **24)** On or about January 2019, Senate Bill 498 was drafted and submitted to the Oregon
14 Legislature for consideration. The bill, in its original draft, sought to “prohibit the [Department
15 of Corrections’] correctional facilities from having a contract with a provider of telephone
16 services under which the department or a correctional facility receives a fee or other form of
17 payment for telephone services provided top inmates of the correctional facility.”

18 **25)** On or about April 23, 2019, the Senate passed SB 498 with amendments that prohibited
19 ODOC from receiving a “fee or commission for telephone services provided to inmates other
20 than the reimbursements to “the department’s internal and external costs to oversee and manage
21 the inmate telephone services or communications system” and payment to “third party
22 providers.” The bill additionally included an emergency clause to make the law effective as to
23 “contracts for inmate telephone services entered into, extended or renegotiated on or after” July

24 _____
(Attachment No. 1, pp 33-34).

1, 2019.

26) On or about June 3, 2019, the House passed SB 498 without further amendment.
(Attachment No. 3, Enrolled version of SB 498).

27) On or about May 11, 2019, DAS issued a notice of intent to award the contract for
“Adults in Custody – Communications and Related Services” to a new contractor, Century Link.

28) In May 2020 the ODOC informed AIC’s that it’s contract with Defendant Telmate would
be ending.

PLAINTIFFS USE OF SERVICES

29) Plaintiff arrived at the Oregon State Correctional Institution (OSCI) in May 2017 and
began utilizing the kiosk services of defendants.

30) Plaintiff had to pay .25 cents per message he sent and .25 cents for every photo he took
and posted to his Telmate Kiosk photo gallery. Plaintiff utilized these services with the
understanding and belief that the photos and messages would remain the property of Plaintiff.

PHOTO GALLEY

31) Plaintiff had more than 198 photos in his Telmate photo gallery that he had paid to be
posted personally and that his family had posted for his enjoyment. The cost for these photos was
approximately \$49.50.

MESSAGES

32) eMessaging cost .25 cents per message on the kiosk and .03 cents per minute on the
tablet.

33) Plaintiff sent and received more than 4000 messages on the Telmate Kiosk and tablet.

34) The cost for these messages was approximately \$1000.

END OF SERVICES

35) In May 2020 the ODOC informed plaintiff and other AIC’s that it’s contract with

1 Defendant Telmate would be ending.

2 **36)** The ODOC stated that AIC's would have to have family and or friends go on line and
3 obtain copies of all photos and messages or the prisoner would not be able to have them.

4 **37)** Plaintiff had no family or friends who would or could go on line to get copies of the
5 photos. Many of Plaintiffs contacts he no longer communicated with but wanted to keep the
6 photos and texts.

7 **38)** Plaintiff filed a grievance asking to be provided with a copy of all pictures and text in his
8 gallery and account.

9 **39)** The ODOC ultimately responded that the grievance was denied as "outside the
10 jurisdiction of the Dept. Telmate is outside ODOC".

11 **40)** Plaintiff filed a tort notice pursuant to the provisions of ORS 30.275.

12 **41)** On June 20, 2020 the ODOC responded to Plaintiffs tort notice denying relief. Defendant
13 Telmate did not respond to the Notice of Tort.

14 **Exhaustion of Administrative Remedies**

15 **42)** Plaintiff exhausted all administrative remedies made known and available to him.

16 **CAUSES OF ACTION**

17 **CAUSE OF ACTION NO. 1**

18 **(Conversion – Oregon State Law for Taking of Property Without Just Compensation)**

19 **43)** Plaintiff realleges paragraphs No. 1 to paragraph No. 43, as if fully set out here by
20 mention.

21 **44)** At the time of the allegations herein Defendants were acting agents of the state of Oregon
22 acting under the color of law.

23 **45)** At all times pertinent hereto, defendants have acted with the help of and in concert with
24 state officials in that they were given the exclusive right to provide eMessaging and ePhoto

1 services to incarcerated persons within that entities jurisdiction.

2 46) Defendants shared a portion of their profits with the Oregon Department of Corrections
3 made from the eMessages and photos Plaintiff and his family paid for.

4 47) Plaintiff has a vested interest in the eMessages he paid for and a vested interest in the
5 ePhotos and eMessages sent to and received by Plaintiff.

6 48) Defendants' taking of Plaintiffs property without just compensation is contrary to Oregon
7 common law.

8 49) The Oregon Department of Corrections delegated authority to the Defendants sufficient
9 that the Defendants forfeiture actions and taking of plaintiff's property is an illegal taking by
10 virtue of State action within the meaning of conversion.

11 50) As a result of Defendants actions Plaintiff has been damaged.

12 **CAUSE OF ACTION NO. 2**
13 **(Unjust Enrichment – Oregon State Law)**

14 51) Plaintiff realleges paragraphs No. 1 to paragraph No. 50, as if fully set out here by
15 mention.

16 52) Plaintiff reasonable expected that the photos and eMessages he paid for and sent and
17 received would be his permanent property.

18 53) As described above, Plaintiff did not receive what he paid for with respect to eMessages
19 and ePhotos because Defendants kept the property when it parted ways with the Oregon
20 Department of Corrections.

21 54) Defendants have been unjustly enriched at the expense of Plaintiff because Defendants
22 have converter Plaintiffs property to their own without permission or just compensation.

23 55) As a result Defendants should be required to disgorge and restore Plaintiff all monies and
24 should pay over such unjust enrichment received.

CAUSE OF ACTION NO. 3
(Oregon Unfair Trade Practices Act ORS 646.605- ORS 646.656)

56) Plaintiff realleges all facts and allegations previously set out in paragraph 1 to 55, as if fully set out here by mention.

57) Defendant Telmate agreed not to “[t]ake unfair advantage” of “[I]nmates through manipulation, concealment, abuse of privileged information, misrepresentation of material facts, or any other unfair trade practice”. (Att. 1, pg. 23).

58) Defendant Telmate agreed not to “mislead...[I]nmates through deceptive acts or practices, false advertising claims, misrepresentations” or promote unfair methods of competition.” (Att. 1, pg. 23).

59) Defendant Telmate led Plaintiff to believe the pictures and text he purchased and received would be his property permanently. However, Defendant Telmate kept the property and converted it for its own use and storage or otherwise destroyed the material without just compensation to Plaintiff.

CAUSE OF ACTION NO. 4
(Claim Under 42 USC § 1983 for Taking of Property Without Just Compensation in Violation of the Fifth Amendment to the US Constitution)

60) Plaintiff realleges paragraphs No. 1 to paragraph No. 59, as if fully set out here by mention.

61) At the time of the allegations herein Defendants were acting agents of the state of Oregon acting under the color of law for the purposes of 42 USC § 1983.

62) At all times pertinent hereto, defendants have acted with the help of and in concert with state officials in that they were given the exclusive right to provide eMessaging and ePhoto services to incarcerated persons within that entities jurisdiction.

63) Defendants shared a portion of their profits with the Oregon Department of Corrections

1 made from the eMessages and photos Plaintiff and his family paid for.

2 **64)** Plaintiff has a vested interest in the eMessages he paid for and a vested interest in the
3 ePhotos and eMessages sent to and received by Plaintiff.

4 **65)** Defendants' taking of Plaintiffs property without just compensation is contrary to the
5 Fifth Amendment of the Constitution.

6 **66)** The Oregon Department of Corrections delegated authority to the Defendants sufficient
7 that the Defendants forfeiture actions and taking of plaintiff's property is an illegal taking by
8 virtue of State action within the meaning of 42 USC § 1983.

9 **67)** As a result of Defendants actions Plaintiff has been damaged.

10 **CAUSE OF ACTION NO. 5**
11 **(Declaratory Relief Under The Declaratory Judgment Act, 28 U.S.C. § 2201, et seq)**

12 **68)** Plaintiff realleges paragraphs No. 1 to paragraph No. 60, as if fully set out here by
13 mention.

14 **69)** Plaintiff brings this claim for relief on behalf of himself and similarly situated prisoners.

15 **70)** An actual controversy has arisen and now exists between Plaintiff and Defendants
16 concerning the respective rights and duties in that Plaintiff contends Defendants have engaged in
17 and are continuing to engage in the unlawful practices alleged herein.

18 **71)** A Judicial declaration is necessary and appropriate at this time, under the circumstances
19 presented, in order that Plaintiff may ascertain their rights and duties with respect to defendant's
20 practices.

21 **RELIEF SOUGHT**

22 **72)** WHEREFORE, plaintiff is entitled to judgment as follows:

23 **DECLARATORY**

24 **73)** Wherefore, Plaintiff requests that the court issue a declaratory judgment stating that:

- a) Declaring that Defendants taking of plaintiff's property is an illegal taking by virtue of State action within the meaning of conversion.
- b) Defendants have been unjustly enriched at the expense of Plaintiff because Defendants have converter Plaintiffs property to their own without permission or just compensation.
- c) Defendant's forfeiture actions and taking of plaintiff's property is an illegal taking by virtue of State action within the meaning of 42 USC § 1983.
- d) Defendant's forfeiture actions and taking of plaintiff's electronic communications is an illegal taking by virtue of State action is a Violation of the Oregon Unfair Trade Practices Act ORS 646.605- ORS 646.656.
- e) Defendants have been unjustly enriched at the expense of Plaintiff because Defendants have converter Plaintiffs property to their own without permission or just compensation.
- f) Make any other declaration that this court deems just and appropriate.

INJUNCTIVE

74) Order Defendants, their agents, their employees, contractors and those working in concert with them to:

- (a) Return to plaintiff all eMessages and ePhotos as set out in this complaint; and
- (b) Order any other injunctive relief that this court deems just and appropriate.

COMPENSATORY

75) Plaintiff requests this court to grant him compensatory damages as may be deemed just and appropriate in an amount to be determined at trial.

COSTS AND FEES

76) Award plaintiff his costs and fees associated with bringing this action.

Dated this 11 day of August 2020.

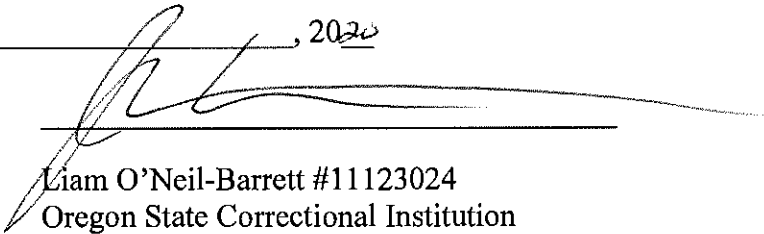
Liam O'Neil-Barrett #11123024
Oregon State Correctional Institution
3405 Deer Park Drive S.E.
Salem, Oregon 97310
Plaintiff Pro Se

FILED 25 AUG '20 10:50 USDC-ORF

DECLARATION

I, ***Liam O'Neil-Barrett***, pursuant to 28 USC §1747, hereby declare that the above facts and allegations are true and correct to the best of my knowledge and belief, and I understand it is subject to the penalty of perjury under Oregon law. With that knowledge I hereby affix my true and correct signature.

Dated this 11 day of August, 2020


Liam O'Neil-Barrett #11123024
Oregon State Correctional Institution
3405 Deer Park Drive S.E.
Salem, Oregon 97310
Plaintiff Pro Se

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**Contract for Inmate Payphone and
Associated Inmate Monitoring and
Recording Equipment and Services (ITS)**

Contract Number 3999

Between

Oregon Department of Corrections and

Pinnacle Public Services LLC

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THIS CONTRACT FOR INMATE PAYPHONE AND ASSOCIATED INMATE MONITORING AND RECORDING EQUIPMENT AND SERVICES (THE "ITS CONTRACT" OR "CONTRACT") IS BETWEEN THE STATE OF OREGON, ACTING BY AND THROUGH ITS DEPARTMENT OF CORRECTIONS ("ODOC"), 3601 STATE STREET SUITE 280 SALEM, OR 97301-5780,

and

Pinnacle Public Services LLC
a Limited Liability Corporation in the State of Oregon
1108 SE 6th Street, Ontario, Oregon 97914
Telephone: (800)205-5510, fax: (208)379-7498
 Kevin O'Neil, President

Federal Employer Tax Identification Number: On file at ODOC
 State Tax Identification Number: On file at ODOC

together with Telmate LLC hereinafter collectively called "Contractor."

RECITALS

ODOC issued Request for Proposals #3999 ("RFP"), Inmate Payphone and Associated Inmate Monitoring and Recording Equipment and Services, and in reliance upon Contractor's proposal, a portion of which is attached hereto and identified as Attachment 8, the Contractor was selected as most advantageous to ODOC following a competitive evaluation process; and

Contractor is capable of providing a complete turn-key, fully operational and reliable system as described in its proposal to allow for protection of the public, continued improvement of ODOC security and facilitation of law enforcement, through a seamless system that will provide Inmate telephone service, call control capabilities and the ability to record and monitor calls, as allowed by law and associated Enhanced Services for the ODOC inmate population; and

ODOC, through its collaborative relationship with the Contractor as established under this Contract, intends to define and continuously improve mutually agreeable services to Inmates;

NOW, THEREFORE, in consideration of the mutual covenants herein contained and subject to the terms, conditions, provisions, and limitations contained in this Contract, ODOC and the Contractor agree as follows:

CONTRACT

I. EFFECTIVE DATE AND DURATION

This ITS Contract is effective, has a term, and may be extended as provided in Section B of Attachment 1.

II. PURPOSE AND SCOPE OF WORK

The purpose of this ITS Contract is for the Contractor to provide inmate payphone and associated monitoring and recording equipment and services for the 14 ODOC operated

prison sites throughout the State of Oregon and any additional Institutions that may be purchased or constructed during the course of this Contract. Contractor shall provide these services in accordance with the terms and conditions of this Contract, as set forth in particularity in Attachments 3, 5, and 8.

III. CONTRACT DOCUMENTS

This ITS Contract consists of (a) this ITS Contract without Attachments, together with (b) all Contract Amendments, and (c) the following listed attachments which are attached and are hereby incorporated into this ITS Contract by reference:

Attachment 1 – Legal Terms and Conditions

Attachment 2 – Commission and Rates

Attachment 3 – Statement of Work

Attachment 4 – Insurance Requirements

Attachment 5 – Contractor Assurance

Attachment 6 – Department of Corrections - Code of Ethics [May be viewed at the following website:

http://www.oregon.gov/DOC/PUBSER/rules_policies/docs/20.1.2.pdf

Attachment 7 – Designated Institution

Attachment 8 – Portions of Contractor's Proposal

IV. CERTIFICATION OF TAXES

CERTIFICATION: I, the undersigned representative of Contractor, hereby certify and swear under penalty of perjury that I am authorized to act on behalf of Contractor, that I have authority and knowledge regarding Contractor's payment of taxes, and that to the best of my knowledge, Contractor is not in violation of any Oregon Tax Laws.

For purposes of this certificate, "Oregon Tax Laws" means those Oregon tax laws named in ORS 305.380(4), including without limitation the state inheritance tax, gift tax, personal income tax, withholding tax, corporation income and excise taxes, amusement device tax, timber taxes, cigarette tax, other tobacco tax, 9-1-1 emergency communications tax, the homeowners and renters property tax relief program and local taxes administered by the Department of Revenue, including the Multnomah County Business Income Tax, Lane Transit District Tax, Tri-Metropolitan Transit District Employer Payroll Tax, and Tri-Metropolitan District Self Employment Tax.

By: 

Date: 4/30/12

(Authorized Signatory, Title)

V. PERFORMANCE UNDER PENDING LITIGATION

Contractor acknowledges that if performance is commenced under this ITS Contract while litigation challenging the process ODOC used to solicit this Contract is still pending, there is a possibility that a court may find ODOC failed to conduct the solicitation in compliance with Oregon procurement law, and may remand the solicitation back to ODOC for further action in compliance with the court's ruling. In such an event, ODOC may cancel this contract pursuant to this Section if, in its sole discretion, it determines such action is necessary to comply with the court ruling. Should ODOC

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cancel the Contract under this Section, ODOC will have no liability to Contractor for, and Contractor shall not seek to recover from ODOC, any costs, fees, or other expenses Contractor may incur in the course of performance, or in preparations taken in anticipation of performance, notwithstanding any court award of same pursuant to ORS 279B.415(7). Contractor acknowledges this risk is inherent in proceeding with performance of a contract whose underlying solicitation is the subject of a judicial dispute, and hereby assumes this risk.

Signatures

In witness, the parties have caused this ITS Contract to be executed by their duly authorized representatives.

Contractor

By:  President

(Authorized Signatory, Title)

Date: 4/30/12

ODOC

By: 

(Leonard W. Williamson, Inspector General)

Date: 4/30/12

Approved as to Legal Sufficiency

By: 

(Jonathan M. Ward, Assistant Attorney General)

Date: 4/30/12

Attachment #1 – Legal Terms and Conditions**A. Definitions**

- (1) "Confidential Information" includes, but is not limited to, all ODOC ITS data and information marked or designated in writing by either party as "confidential" prior to initial disclosure.
- (2) "Facility" means an ODOC institution where Contractor is providing Services, including the Designated Institutions listed in Attachment 7.
- (2) "Procurement" means a solicitation or procurement for the ITS or other decision by ODOC. For purposes of this RFP, "Procurement" includes negotiation, renewal or renegotiation of the ITS Contract with ODOC without regard to whether a formal solicitation or procurement process is used.
- (3) "Proposal" means the Contractor's proposal submitted to DOC in response to the RFP. Where Contractor is required to perform under this ITS Contract pursuant to its Proposal, such requirement refers to the portions of the Proposal extracted in Attachment 8.
- (4) "Services" refers to all work that Contractor performs under this ITS Contract as specified in Attachment 3, any associated services, goods, and deliverables including but not limited to, equipment for complete Turn Key system, ITS installation and maintenance, payphones, Enhanced Services, kiosks, and ITS training.
- (5) "Subcontractor" means an individual or entity performing all or part of the services under this Contract, under a separate agreement with the Contractor. The terms Subcontractor and Subcontractors mean subcontractor(s) in any tier. For the purpose of this contract, the term Subcontractor relates to those subcontracts that are related directly or indirectly to ensuring the successful operation of the ITS.

Other terms will be defined as used in the ITS Contract, or are defined in Section I of Attachment 3.

B. Term

- (1) This ITS Contract, which includes both setup, implementation and ongoing maintenance, is effective upon approval by the Department of Justice and receipt of all required signatures the ("Effective Date"). While Contractor will not begin providing Services until the Effective Date, there will be work required prior to the Effective Date, including but not limited to: institutional site surveys; implementation planning with ODOC Project Manager(s); and Contractor training of ODOC's policies and procedures.
- (2) Unless extended by ODOC, this ITS Contract will terminate after June 30, 2015.
- (3) ODOC and Contractor may, by mutual agreement, extend the termination date of this ITS Contract by written amendments.

C. Consideration

ODOC will not pay any monetary consideration to Contractor for the ITS under this Contract. Contractor's compensation for Services rendered pursuant to this ITS Contract comes from revenue derived from the rates and fees charged for services, after paying ODOC its commission, as set forth in Attachment 2 and elsewhere in this ITS Contract.

D. Default

(1) Contractor will be in default under this ITS Contract if:

- (a) Contractor institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis; or
- (b) Contractor no longer holds a license or certificate that is required for Contractor to perform its obligations under the ITS Contract and Contractor has not obtained such license or certificate within fourteen (14) calendar days after ODOC's notice or such longer period as ODOC may specify in such notice; or
- (c) Contractor commits any material breach or default of any covenant, warranty, obligation or agreement under this ITS Contract, fails to perform the Services under this ITS Contract within the time specified herein or any extension thereof, or so fails to pursue the Services as to endanger Contractor's performance under this ITS Contract in accordance with its terms, and such breach, default or failure is not cured within 10 calendar days after ODOC's notice, or such longer period as ODOC may specify in such notice.

(2) In the event Contractor is in default under subsection (1), ODOC may, at its option, pursue any or all of the remedies available to it under this ITS Contract and at law or in equity, including, but not limited to:

- (a) termination of this ITS Contract;
- (b) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief; and,
- (c) exercise of its right of setoff.

These remedies are cumulative to the extent the remedies are not inconsistent, and ODOC may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

(3) Liquidated Damages and Remedies are as described per Section G, below.

E. Events of Termination

At the ODOC's discretion, ODOC may terminate this ITS Contract without cause upon thirty (30) days' prior written notice by ODOC to Contractor.

ODOC may terminate this ITS Contract for any reason permitted by law and this ITS Contract including, but not limited to, the following:

- (1) ODOC fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for its obligations under the ITS Contract;
- (2) Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the services to be performed under this ITS Contract are prohibited or ODOC is prohibited from paying for such services from the planned funding source; and,

(3) Contractor is in default under the ITS Contract.

In the event of termination of the ITS Contract pursuant to paragraphs (1) or (2) above, Contractor's sole remedy will be a claim for the sum due Contractor through the date of termination, less previous amounts paid and any claim(s) that ODOC has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under this subsection, Contractor will pay any excess amounts from the Claims Payment Account to ODOC upon demand. In the event of termination pursuant to paragraph (3) above, ODOC will have any remedy available to it in law or equity.

F. Procedure upon Termination

In the event of termination of this ITS Contract, Contractor will administer all claims upon thirty (30) days' notice to Contractor if requested by ODOC. ITS Contract termination will not extinguish or prejudice ODOC's right to enforce this ITS Contract with respect to any default by Contractor that has not been cured.

Contractor will transfer to ODOC, in the event that ODOC does not request that Contractor administer all claims within 30 calendar days of notice of termination, all required service data and records necessary to administer the Services without a break in service.

Upon termination of this ITS Contract for any reason whatsoever, Contractor will immediately deliver to ODOC all of ODOC's property (including without limitation any Work Products for which ODOC has made payment in whole or in part) that is in the possession or under the control of Contractor in whatever stage of development and form of recordation such ODOC property is expressed or embodied at that time. Upon receiving a notice of termination of this ITS Contract, Contractor will immediately cease all activities under this ITS Contract, unless ODOC expressly directs otherwise. Upon ODOC's request, Contractor will surrender to anyone ODOC designates all documents, research or objects or other tangible things needed to continue provision of services comparable to the Services, and complete any Work Products.

G. Liquidated Damages Remedies

Upon notification by ODOC to Contractor of the occurrence of any breach by Contractor described in Section D(1), ODOC may collect from Contractor, and Contractor shall pay to ODOC certain dollar amounts described below (the "Liquidated Damages"), and ODOC is entitled to the other remedies described below. Contractor and ODOC recognize that it would be difficult to prove damages in the event of such breaches. Contractor and ODOC agree that (a) the Liquidated Damages are reasonable in light of the difficulties of proof of loss, the anticipated harm caused by such breaches, and the inconvenience and infeasibility of ODOC or any ODOC Entity otherwise obtaining an adequate remedy, (b) the Liquidated Damages represent an estimated amount of the projected loss or damages that will be suffered by State and the State Entities in connection with such breaches and are not a penalty, and (c) they have reviewed this section with their respective legal counsel, understand its significance, and have specifically negotiated its terms.

(I) Excluding Force Majeure Events, in the event that Contractor breaches its obligation to install within the time period required under the proposed contract or repair, or restore telephone service for, any Inmate telephone or install, repair or restore three-way call detection and call disconnection or call blocking capability, Contractor shall cure such breach within a 24 hour period after the subject problem is reported to Contractor. If ODOC is not satisfied that Contractor has resolved the deficiency within the 24 hour period required above, Contractor shall pay to ODOC the sum of \$75 per day per affected Inmate telephone for the first ten

affected Inmate telephones, \$150 per day per affected Inmate telephone for the eleventh through fiftieth affected Inmate telephone and \$200 per day per affected Inmate telephone for any Inmate telephones above fifty, for each day that such breach is not cured, up to Contractor's total revenue earned under this ITS Contract on the last day such affected Inmate telephones were working. Without limiting the foregoing, if Contractor does not cure any such breach within five (5) days after the reporting of such occurrence, in addition to the right to collect the amounts described in the prior sentence, State may immediately terminate this Contract, except that no new Liquidated Damages will accrue *after* such termination.

(ii) Excluding Force Majeure Events, in the event that Contractor breaches its obligation to provide (a) monitoring and recording Services (as more particularly described in Attachment 3), with respect to Inmate telephones, or (b) call information retrieval and search capabilities at each Facility as a result of Contractor system failure, the entire monitoring and recording system at that location will be deemed to be inoperative. Contractor shall cure such breach under subsection (a) within four (4) hours, or within twenty-four (24) hours of such breach under subsection (b), after the deficiency is reported. If ODOC is not satisfied that Contractor has resolved the deficiency within the four (4) hour time period or twenty-four (24) hour time period required above, respectively, Contractor shall pay ODOC the sum of \$2,500 per day for each day that the breach is not cured. In the event that any call recordings cannot be retrieved within two (2) weeks of such breach, the Contractor shall pay ODOC the additional sum of \$100 per lost call recording, up to Contractor's total revenue earned under this ITS Contract on the last day that monitoring and recording systems were operative. Without limiting the foregoing, if Contractor does not cure any such breach within five (5) days after the reporting of such occurrence, in addition to the right to collect the amounts described in the prior sentence, State may immediately terminate this Contract, except that no new Liquidated Damages will accrue *after* such termination.

(iii) Excluding Force Majeure Events, in the event that Contractor breaches its obligation to provide remote access to the monitoring and recording system at a Facility, the entire monitoring and recording system at that location will be deemed to be inoperative. Contractor shall have five (5) days to rectify the deficiency once ODOC reports the deficiency to Contractor. If ODOC is not satisfied that Contractor has resolved the deficiency within the five (5) day period required above, Contractor shall pay ODOC the sum of \$2,500 per day for each day following the five (5) day period the Contractor fails to provide services under this Contract, up to Contractor's total revenue earned under this ITS Contract on the last day that remote access to the monitoring and recording systems were operative. Without limiting the foregoing, if Contractor does not cure any such breach within ten (10) days after the reporting of such occurrence, in addition to the right to collect the amounts described in the prior sentence, State may immediately terminate this Contract, except that no Liquidated Damages will accrue *after* such termination.

The time periods after a breach before which Liquidated Damages or termination rights apply as described in this Section regardless of any other due dates contained in this Contract or the appendices hereto.

For any other breach of any obligations under this Contract as described in section D (1) (c) and not described in Subsections (i) through (iii) above, ODOC is entitled to all remedies available under applicable law or in equity, including, but not limited to, the right to terminate this Contract and to recover from Contractor all actual damages and costs suffered or incurred by ODOC and any ODOC Entity in connection with such matter, including, but not limited to, all costs and expenses of ODOC in obtaining replacement services for the Services and all reasonable

attorney's fees and costs. Such liability includes damages or harm to any ODOC Entity, even if ODOC, when taken as a whole, is not harmed.

Notwithstanding the foregoing, nothing contained herein limits Contractor's liability for personal injury and damage to property caused by Contractor's tortious act.

(1) Additional Remedies. The remedies described in Section G (i) through (iii) above are the exclusive remedies of ODOC with respect to the specific breaches described in such subsections, provided, however that (i) if ODOC is entitled to recover any Liquidated Damages, and Contractor does not pay the same to ODOC, and in connection with ODOC's enforcement of its rights, a court or other forum determines that such Liquidated Damages are unenforceable (other than a finding that the breach underlying the obligation to pay such Liquidated Damages did not occur), ODOC may recover any and all actual and direct damages suffered or incurred by ODOC and any other ODOC Entity in connection with such underlying breach, (ii) ODOC may set off from any amounts ODOC owes under this Contract any undisputed Liquidated Damages, other damages or other amounts owed by Contractor under this Contract, and (iii) ODOC is entitled to all equitable remedies available, including, but not limited to, specific performance.

(2) Consequential Damages. Except as provided in Section G.1, neither ODOC nor any ODOC Entity may recover consequential damages (including, but not limited to, lost profits, lost revenues, lost savings or other consequential damages) from Contractor for any breach under this Contract or arising out of any failure to perform its obligations under this Contract. Contractor may not recover consequential damages (including, but not limited to, lost profits, lost revenues, lost savings, or other consequential damages) from ODOC or any ODOC Entity for any breach under this Contract or arising out of any failure to perform its obligations under this Contract.

H. Permits, Taxes (Federal and Local) and Regulatory Approval

(1) Permits. Contractor shall obtain any necessary official licenses and inspections, certificates of authority, and other official approvals necessary for the provision of the Services under this Contract at Contractor's own expense.

(2) Taxes – Federal and Local. Neither ODOC nor any ODOC Entity is liable for any taxes accruing or coming due as a result of this Contract, whether federal, ODOC, or local, and Contractor is responsible for any such taxes.

(3) Regulatory Approval. If this Contract is now or in the future subject to the approval of applicable State or federal regulatory bodies, the Parties shall be relieved of their obligations hereunder if regulatory approval is denied; or, at the sole discretion of ODOC, those parts of the Contract upon which the denial was based may be renegotiated and the Contract amended to reflect the result of that renegotiation. Without limiting the other remedies available to ODOC for this or any breach by Contractor under this Contract, if any regulatory approval required to allow Contractor to provide the Services and otherwise satisfy its obligations under this Contract is not received which causes Contractor to breach any obligation under this Contract, ODOC may, at its sole discretion, terminate this Contract and obtain service from another party if Contractor does not obtain such regulatory approval within fourteen (14) calendar days after ODOC's notice or such longer period as ODOC may specify in such notice. A decision to

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terminate the Contract under these conditions shall bear no penalty for ODOC or any obligation by ODOC to Contractor.

(4) Contractor shall make every reasonable effort to obtain any required regulatory approval, including promptly responding to information and data requests from the regulatory body. Contractor shall fully cooperate with the Oregon Public Utilities Commission. Contractor shall promptly notify ODOC of all actions taken to obtain such regulatory approval, including all formal filings or informal contacts with the applicable regulatory bodies related to this Contract. To the extent that it reasonably could assist Contractor in obtaining required regulatory approval, if any, of the Services to be rendered under this Contract, ODOC shall make a good faith effort to cooperate with Contractor in making filings with applicable regulatory bodies. So long as Contractor uses all reasonable efforts to obtain any required regulatory approval, failure to obtain such approval is not a breach of this Contract.

I. Compliance with Certain Laws

Contractor shall comply with all State and Federal Law applicable to the administration of the ITS. Contractor shall also comply with applicable Oregon Administrative Rules, particularly including ODOC's Administrative Rules, and applicable agency procedures.

J. [Reserved]

K. [Reserved]

L. [Reserved]

M. [Reserved]

N. Representations and Warranties

Contractor represents and warrants to ODOC that:

- (1) Contractor has the power and authority to enter into and perform this ITS Contract.
- (2) This ITS Contract, when executed and delivered, will be a valid and binding obligation of Contractor enforceable in accordance with its terms.
- (3) Each person executing this ITS Contract on behalf of Contractor hereby represents and warrants to ODOC that such person is duly authorized to execute this ITS Contract and to bind Contractor to each of the terms and provisions hereof.
- (4) The execution and performance of this ITS Contract has been duly authorized by all necessary corporate, trust or partnership action.
- (5) Contractor has the requisite experience, expertise and resources to fully and properly perform all of its duties and obligations, and exercise all of the powers, as set forth herein.
- (6) Contractor is possessed of greater knowledge and skill than the average person and is under a duty to exercise a skill greater than that of an ordinary person. Contractor has the skill and knowledge possessed by well-informed members of its industry, trade or profession and will apply that skill and knowledge with care and diligence to perform the Services in a professional manner and in accordance with standards prevalent in Contractor's industry, trade or profession.
- (7) Contractor will, at all times during the term of this ITS Contract, be qualified, professionally competent, and duly licensed to perform the Services.
- (8) Contractor prepared its Proposal related to this ITS Contract, if any, independently from all other Proposers, and without collusion, fraud, or other dishonesty.

(9) Contractor has completed, obtained and performed all other registrations, filings, approvals, authorizations, consents or examinations required by any government or governmental authority for its acts contemplated by this ITS Contract.

(10) The Proposal and the Exhibits to this ITS Contract are true, complete, accurate, and not misleading.

(11) The Services and ITS System provided will substantially comply with the representations and specifications Contractor provided in its Proposal.

(12) The representations and warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

(13) The Contractor will promptly notify ODOC in writing if any of the foregoing representations or warranties will cease to be true at any time during the term of this ITS Contract.

O. Ownership of Work Product and Confidentiality

(1) Ownership of Work Product

(a) Definitions. As used in this Section, and elsewhere in this ITS Contract, the following terms have the meanings set forth below:

(i) "Contractor Intellectual Property" means any intellectual property owned by Contractor and developed independently from the Services.

(ii) "Third Party Intellectual Property" means any intellectual property owned by parties other than ODOC or Contractor.

(iii) "Work Product" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item and all intellectual property rights therein that Contractor is required to deliver to ODOC pursuant to the ITS Contract.

(b) Original Works. Contractor hereby grants to ODOC a non-exclusive, royalty-free license to use all original Work Product created pursuant to the Services, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine, during the term of this ITS Contract. Upon ODOC's reasonable request, Contractor will execute such further documents and instruments necessary to fully vest such usage rights in ODOC.

In the event that Work Product created by Contractor under this ITS Contract is a derivative work based on Contractor Intellectual Property, or is a compilation that includes Contractor Intellectual Property, Contractor hereby grants to ODOC a non-exclusive, royalty-free license to use the pre-existing elements of the Contractor Intellectual Property employed in the Work Product, during the term of this ITS Contract, and to authorize others to do the same on ODOC's behalf.

In the event that Work Product created by Contractor under this ITS Contract is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Contractor will use reasonable efforts to secure on ODOC's behalf and in the name of ODOC a non-exclusive, royalty-free license to use the pre-existing elements of the Third Party Intellectual Property employed in the Work Product, during the term of this ITS Contract, and to authorize others to do the same on ODOC's behalf.

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- (c) Contractor Intellectual Property. In the event that Work Product is Contractor Intellectual Property, Contractor hereby grants to ODOC a non-exclusive, royalty-free license to use the Contractor Intellectual Property, during the term of this ITS Contract, and to authorize others to do the same on ODOC's behalf.
- (d) Third Party Works. In the event that Work Product is Third Party Intellectual Property, Contractor will use reasonable efforts to secure on ODOC's behalf and in the name of ODOC a non-exclusive, royalty-free license to use the Third Party Intellectual Property during the term of this ITS Contract, and to authorize others to do the same on ODOC's behalf.

(2) Trade Secrets

- (a) Subject to the Statement of Work, each party will make reasonable efforts to maintain the confidentiality of any Confidential Information received from the other party and will not disclose any Confidential Information to third parties except as required in the performance and administration of this ITS Contract or as otherwise authorized by applicable law, order of a court or other dispute resolution forum or administrative agency having authority to order disclosure of such Confidential Information.
- (b) ODOC will, to the extent allowed by Oregon Public Records Law (see ORS 192.410 to 192.505) make reasonable efforts to maintain the confidentiality of any information received from Contractor that is considered Trade Secret information, as defined in ORS 192.501(2) or under Oregon's Uniform Trade Secrets Act. It is Contractor's responsibility to explicitly identify the specific information that is being provided that constitutes Trade Secret information by conspicuously labeling it "Trade Secret Information." ODOC may evaluate Contractor's characterization of material as Trade Secret under applicable legal standards and is not obligated to accept Contractor's characterization.
- (c) Exceptions. The confidentiality obligations imposed by this subsection shall not apply to the following:
 - (i) Information that becomes part of the public domain through lawful means and without breach of any confidentiality obligation by the recipient;
 - (ii) Information subsequently and rightfully received from third parties who have the necessary rights to transfer said information without any obligation of confidentiality;
 - (iii) Information that was known to the recipient prior to initially receiving the information claimed by disclosing party to be confidential;
 - (iv) Information that is independently developed by recipient (and which independent development is documented in writing) without use of, or reference to, any Confidential Information of the other party; and,
 - (v) Information required to be disclosed by compulsory judicial or administrative process or by law or regulation.
- (d) If ODOC is required to disclose information that is submitted in confidence or that constitutes Trade Secrets in this subsection, ODOC will first give Contractor notice and will provide such information as may reasonably be necessary to enable Contractor to take action to protect its interests.
- (e) Upon request, Contractor shall submit a redacted copy of any document for which the Contractor desires Trade Secret protection or which the Contractor believes is otherwise exempt from disclosure. The redacted copy of the document must meet the following requirements:

- (i) Contractor must redact (whiteout, blackout, or otherwise cover) information that it believes is exempt under Oregon Public Records Law, particularly including, but not limited to, information the Contractor believes is Trade Secret information.
- (ii) Contractor must include with its redaction an attachment that contains a list of every redaction made by Contractor as well as the following information:
 - (a) The section, subsection, and page number of the document where each specific redaction is found;
 - (b) A general description of the information that has been redacted for each specific redaction;
 - (c) The basis, or bases, under Oregon Public Records Law for making each specific redaction (i.e. information described above in this Section labeled "Trade Secret Information" or other applicable exemption); and,
 - (d) The specific Contractor contact person ODOC should contact in the event a public records request has been made that may include information that has been redacted by Contractor or in the event that ODOC has any questions related to information redacted by Contractor.

(3) Oregon Public Records Law. Contractor acknowledges that any information disclosed to ODOC may be disclosed subject to the Oregon Public Records Laws and may also be subject to the provisions for the Custody and Maintenance of Public Records, including the archiving requirements at ORS 192.005 to 192.170. The non-disclosure of documents or any portion of a document submitted by Contractor to ODOC may depend upon official or judicial determinations made pursuant to the Oregon Public Records Law. If ODOC receives a request under the Oregon Public Records Law for the disclosure of information designated by Contractor as "Trade Secret Information," ODOC shall notify Contractor within a reasonable period of time of the request. Contractor shall be exclusively responsible for defending Contractor's position concerning the confidentiality of the requested information. Neither the State of Oregon nor any of its agencies is or shall be obligated to assist in Contractor's defense. If any requests for disclosure of such information are made to ODOC, ODOC intends to make a disclosure only consistent with and to the extent allowable under law. The State shall not be liable for release of any information when required by law or court order to do so, whether pursuant to the Oregon Public Records Law or otherwise and shall also be immune from liability for disclosure or release of information under the circumstances set out in ORS 646.473(3).

P. Independent Contractor; Responsibility for Taxes and Withholding

Contractor will perform all required Services as an independent Contractor. Although ODOC reserves the right to determine (and modify) the delivery schedule for the Services to be performed and to evaluate the quality of the completed performance, ODOC cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Services.

If Contractor is currently performing Services for the State of Oregon or the federal government, Contractor by signature to this ITS Contract declares and certifies that: Contractor's Services to be performed under this ITS Contract creates no potential or actual conflict of interest as defined by ORS 244.020. No rules or regulations of Contractor's employing agency (state or

federal) would prohibit Contractor's Services under this ITS Contract. Contractor is not an "officer," "employee," or "agent" of ODOC, as those terms are used in ORS 30.265.

Contractor will be responsible for all federal or state taxes applicable to compensation or payments paid to Contractor under this ITS Contract and, unless Contractor is subject to backup withholding, ODOC will not withhold from such compensation or payments any amount(s) to cover Contractor's federal or state tax obligations. Contractor is not eligible for any social security, unemployment insurance or Workers' compensation benefits from compensation or payments paid to Contractor under this ITS Contract.

Q. Records Maintenance; Access

Contractor will maintain all fiscal records relating to this ITS Contract in accordance with generally accepted accounting principles. In addition, Contractor will maintain any other records pertinent to this ITS Contract in such a manner as to clearly document Contractor's performance. Contractor acknowledges and agrees that ODOC and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to such fiscal records and other books, documents, papers, plans and writings of Contractor that are pertinent to this ITS Contract to perform examinations and audits and make excerpts and transcripts. Contractor will retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of three (3) years, or such longer period as may be required by applicable law, following final payment and termination of this ITS Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this ITS Contract, whichever date is later.

Contractor will allow ODOC to audit claims and other records relating to this ITS Contract at any time. ODOC will have the right to audit any billings or examine any records maintained pursuant to this ITS Contract both before and after payment. Payment under this ITS Contract will not foreclose the right of ODOC to recover excessive or illegal payments.

R. Governing Law; Venue; Consent to Jurisdiction

This ITS Contract will be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between ODOC or any other agency or department of the State of Oregon and Contractor that arises from or relates to this ITS Contract will be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it will be brought and conducted solely and exclusively within the United States Court for the District of Oregon. In no event will this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. **CONTRACTOR, BY EXECUTION OF THIS ITS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.**

S. ODOC Rules

All terms and conditions of the ITS Contract are governed by ODOC's Rules (OAR Chapter 291) generally, in addition to any specific ODOC Rules cited herein. In the event that the ITS Contract's terms and conditions conflict with ODOC's Rules, ODOC's Rules will take precedence over the terms and conditions of the ITS Contract.

T. Capacity to Contract in Oregon

Contractor is either domiciled in or registered to do business in the State of Oregon, and prior to entering into this ITS Contract shall provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies to demonstrate its legal capacity to perform the Services under this ITS Contract in the State of Oregon.

U. Compliance with Applicable Law

Contractor will comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the ITS Contract. Without limiting the generality of the foregoing, Contractor expressly will comply with the following laws, regulations and executive orders to the extent they are applicable to the ITS Contract: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) ORS Chapter 659, as amended; (ix) all regulations and administrative rules established pursuant to the foregoing laws (except for administrative rules in direct conflict with a term/condition in this ITS Contract); and (x) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. With regard to Workers' compensation insurance, all employers, including Contractor, that employ subject Workers who work under this ITS Contract in the State of Oregon will comply with ORS 656.017 and provide the required Workers' compensation coverage, unless such employers are exempt under ORS 656.126(2). These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the ITS Contract and required by law to be so incorporated. Contractor will, to the maximum extent economically feasible in the performance of this ITS Contract, use recycled paper (ORS 279A.010(gg)), recycled PETE products (ORS 279A.010(hh)), and other recycled products (ORS 279A.010(ii)). Contractor will require and ensure that each of its subcontractors complies with these requirements. A reference in this ITS Contract to a provision of law means the provision as in effect or as may be amended from time to time.

V. Foreign Contractor

If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to the Contractor's performance of any resulting Contract. Contractor shall have demonstrated its legal capacity to perform the services set forth under the Scope of Work of this ITS Contract in the State of Oregon prior to entering into this ITS Contract. The Oregon Secretary of State website may be accessed at <http://www.filinginoregon.com/index.htm>.

W. Security

If Services performed under this Contract requires Contractor to have access to or use of any ODOC computer system or other ODOC Information Asset for which ODOC imposes security requirements, Contractor shall comply and require subcontractors to comply with the information security requirements imposed under this section. "Information Asset" means all Confidential Information in any form (e.g., written, verbal, oral or electronic) which ODOC determines requires security measures, including confidential information created by ODOC, gathered for ODOC, or stored by ODOC for external parties.

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(1) All requirements imposed on Contractor under this section shall also apply to its officers, employees, agents and subcontractors that have access to any ODOC information computer system or other ODOC Information Asset, and Contractor shall include these requirements in any subcontract that may provide such access by a Subcontractor, its officers, employees or agents to any ODOC computer system or other ODOC Information Asset. Contractor shall:

(a). Cooperate with ODOC in identifying Information Assets that will be utilized in the performance of Services and applicable security measures that will be undertaken to protect the Information Assets, and provide updated information to ODOC within fourteen (14) calendar days of the date such information changes for any reason;

(b). Implement security measures that reasonably and appropriately provide administrative, physical and technical safeguards that protect the confidentiality, integrity and availability of the Information Assets that it creates, receives, maintains or transmits on behalf of ODOC. Contractor's security measures must be documented in writing and be available for review by ODOC upon request. ODOC's review of the reasonableness of security measures, as well as Contractor's compliance with ODOC's assigned access control or security requirements, will take into account Contractor's physical, administrative, and technical capabilities related to security measures and the potential risk of unauthorized use or disclosure of Information Assets by Contractor, its officers, employees, agents or subcontractors.

(c) Prevent any unauthorized access to or disclosure of ODOC's information systems and Information Assets.

(d) Take necessary actions to comply with ODOC's determinations of the level of access that may be granted, as well as changes in level of access, or suspension or termination of access as determined by ODOC.

(e) Keep any ODOC assigned access control requirements such as identification of authorized user(s) and access control information in a secure location until access is terminated; monitor and securely maintain access by Contractor and its agents and subcontractors in accordance with security requirements or access controls assigned by ODOC; and make available to ODOC, upon request, all information about Contractor's use or application of ODOC access controlled computer systems or Information Assets.

(f) Report to ODOC any privacy or security incidents by Contractor, its officers, employees, agents or subcontractors that compromise, damage, or cause a loss of protection to ODOC Information Assets. Contractor shall report in the following manner:

(i) Report to ODOC in writing within five (5) business days of the date on which Contractor becomes aware of such incident; and

(ii) Provide ODOC the results of the incident assessment findings and resolution strategies.

(g) Comply with ODOC requests for corrective action concerning a privacy or security incident, and with laws requiring mitigation of harm caused by the unauthorized use or disclosure of Confidential Information, if any.

(2) If ODOC determines that Contractor's security measures or actions required under this section are inadequate to address the security requirements of ODOC, ODOC will notify Contractor. ODOC and Contractor may meet to discuss appropriate security measures or action. If security measures or corrective actions acceptable to ODOC cannot be agreed upon, ODOC may take such actions as it determines appropriate under the circumstances. Actions may include but are not limited to restricting access to computer systems or Information Assets, or ODOC amending or terminating the Contract.

(3) ODOC may request additional information from Contractor related to security measures, and may change, suspend or terminate access to or use of an ODOC computer system or Information Assets by Contractor, its officers, employees, agents or subcontractors.

(4) Wrongful use of ODOC computer systems, wrongful use or disclosure of Information Assets by Contractor, officers, its employees, agents or its subcontractors may cause the immediate suspension or revocation of any access granted through this Contract, in the sole discretion of ODOC. ODOC may also pursue any other legal remedies provided under the law.

(5) Security Background Check. Upon request by ODOC, Contractor shall provide (at its own expense) ODOC with sufficient personal information about its agents, employees, and the agents and employees of its sub-contractors (if any), who will enter upon premises controlled, held, leased, or occupied by ODOC during the course of performing this Contract to facilitate ODOC's criminal record check of such personnel, at state expense.

X. Indemnity

(1) General Indemnity. Contractor will defend, save, hold harmless, and indemnify the State of Oregon and ODOC and their officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever, including the cost of legal defense or settlement and reasonable attorneys' fees, to the extent directly caused by the reckless or negligent activities of Contractor or its officers, employees, subcontractors, or agents under this ITS Contract; provided, that ODOC provides Contractor with prompt written notice of any infringement claim, control of its defense and/or settlement as described in subsection (4) below, and reasonable cooperation therein, at Contractor's expense, as may be requested by Contractor.

(2) Indemnity for infringement claims. Without limiting the generality of section (a), Contractor expressly will defend, indemnify, and hold ODOC, the State of Oregon and their agencies, subdivisions, officers, directors, agents, and employees harmless from any and all claims, suits, actions, losses, liabilities, costs, expenses, including attorneys' fees, and damages arising out of or related to any claims that the Services, the Work Product or any other tangible or intangible items delivered to agency by Contractor that may be the subject of protection under any State or federal intellectual property law or doctrine, or the agency's use as intended thereof, infringes any patent, copyright, trade secret, trademark, trade dress, mask work, utility design, or other proprietary right of any

third party; provided, that ODOC will provide Contractor with prompt written notice of any infringement claim, control of its defense and/or settlement as described in subsection (4) below, and reasonable cooperation therein, at Contractor's expense, as may be requested by Contractor.

(3) Limitation of Liability. Except as otherwise provided in this Section X, Telmate does not assume any liability for any acts or omissions of ODOC or ODOC's agents, employees, or inmates, or ODOC's possession, operation, or use of the Services.

(4) Control of defense and settlement. Contractor will have control of the defense and settlement of any claim that is subject to sections (1) or (2); however, neither Contractor nor any attorney engaged by Contractor will defend the claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without first receiving from the Oregon Attorney General, in a form and manner determined appropriate by the Attorney General, authority to act as legal counsel for the State of Oregon, nor will Contractor settle any claim on behalf of the State of Oregon without the approval of the Attorney General. The State of Oregon may, at its election and expense, assume its own defense and settlement in the event that the State of Oregon determines that Contractor is prohibited from defending the State of Oregon, or is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue and the State of Oregon desires to assume its own defense. Neither party will settle or compromise a claim on behalf of the other party without that party's prior written consent which should not be unreasonably withheld.

Y. Insurance

Contractor will maintain insurance as set forth in Attachment 4 which is attached hereto.

Z. [Reserved]

AA. Agents and Subcontractors

ODOC will neither recognize the appointment of any agent, general agent or broker by Contractor nor authorize any payment or remuneration of any kind by Contractor to a party not approved in writing by ODOC.

Contractor will not enter into any subcontracts for any of the Services required by this ITS Contract without ODOC's prior written consent. ODOC's consent to any subcontract will not relieve Contractor of any of its duties or obligations under this ITS Contract. The provisions of this ITS Contract will be binding upon and will inure to the benefit of the parties hereto, and their respective successors and permitted assigns, if any.

Any capability for which the Contractor will be relying upon the service or assistance of a third party have been disclosed in the Proposal. The Contractor has described the nature of such relationships, including a description of all relevant agreements between the two parties.

In the event any Services or Goods are subcontracted, nothing contained in the ITS Contract or any subcontract shall create any contractual relationship between any such Subcontractor and ODOC, and Contractor agrees to accept full responsibility for the performance of all Services or Goods that Contractor has subcontracted. Contractor shall hold such Subcontractor to the same standards and requirements to which Contractor is obligated under the ITS Contract. More

specifically, Contractor shall require Subcontractor to comply with the following Terms and Conditions of these Sections of the ITS Contract: I, N, R, S, U, X, AA, BB, II, and JJ.

Subject to the foregoing, ODOC hereby approves Contractor's proposed use of Keefe as a Subcontractor, and consents to the performance or satisfaction of Contractor's obligations by Telmate LLC.

Contractor may not charge ODOC for any Services provided by Contractor's Agents or Subcontractors.

BB. Survival

All rights and obligations will cease upon termination or expiration of this ITS Contract, except for those terms and conditions provided in the following Sections of Attachment 1 to the ITS Contract: F, G, N, O, P, Q, R, S, X, Y (with respect to Tail Coverage), BB, FF, and any other provisions which by their terms are meant to survive termination or expiration of this ITS Contract.

CC. Notices

Except as otherwise expressly provided in this ITS Contract, any communications between the parties hereto or notices to be given hereunder will be given in writing by email, personal delivery, facsimile, or mailing the same, postage prepaid, to Contractor or ODOC at the address, number or email address set forth in this ITS Contract, or to such other addresses or numbers as either party may indicate pursuant to this Section. Any communication or notice so addressed and mailed will be effective five (5) days after mailing. Any communication or notice delivered by facsimile will be effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours, or on the next business day, if transmission was outside normal business hours of the recipient. Any communication or notice given by email will be effective upon the sender's receipt of confirmation generated by the recipient personally. Any communication or notice given by personal delivery will be effective when actually delivered.

DD. Entire ITS Contract

The ITS Contract and the exhibits listed therein and attached thereto constitute the entire agreement between the parties on the subject matter thereof. Any communication materials prepared by ODOC or Contractor for distribution do not constitute a part of this ITS Contract unless such materials are part of an Attachment to this ITS Contract. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this ITS Contract.

EE. Order of Precedence

Whenever possible, all terms and conditions in this ITS Contract are to be harmonized. In the event of conflict between the documents and this agreement, documents will be interpreted in the following order of precedence:

- (1) The ITS Contract without Attachments; and
- (2) The Attachments to the ITS Contract, in Numeric Order.

FF. Waiver

No agent has the authority to change this ITS Contract or waive any of its provisions. No waiver, consent, modification or change of terms of this ITS Contract will bind all parties unless in writing and signed by both parties and all necessary State approvals have been obtained. Such waiver, consent, modification or change, if made, will be effective only in the specific instance

and for the specific purpose given. The failure of either party to enforce any provision of this ITS Contract will not constitute a waiver by either party of that or any other provision.

GG. Amendments

To be valid, any change or amendment to the ITS Contract must be approved by an officer of Contractor, an officer of ODOC, and, if not exempt, the Oregon Attorney General's Office. No amendment to this ITS Contract will be effective unless it is in writing signed by the parties, and all approvals required by applicable law have been obtained before becoming effective.

At its discretion, ODOC may amend this ITS Contract, including, but not limited to, the desirables and other goods and services required by new technologies, and negotiable aspects agreed to in the initial contract or the RFP, to the extent provided in the Request for Proposals and negotiations from which this ITS Contract arose, and to the extent permitted by applicable statutes and administrative rules.

HH. Force Majeure

Neither ODOC nor Contractor will be held responsible for delay or default caused by fire, riot, acts of God, terrorist acts, or other acts of political sabotage, or war where such cause was beyond the reasonable control of ODOC or Contractor, respectively. Contractor will, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and will, upon the cessation of the cause, diligently pursue performance of its obligations under this ITS Contract.

II. Assignment

The provisions of this ITS Contract will be binding upon and inure to the benefit of the parties, their respective successors, and permitted assigns, if any. Contractor shall not assign, delegate or transfer any of its rights or obligations under this ITS Contract without ODOC's prior written consent.

JJ. No Third Party Beneficiaries

ODOC and Contractor are the only parties to this ITS Contract and are the only parties entitled to enforce the terms of this ITS Contract. Nothing in this ITS Contract gives, is intended to give, or will be construed to give or provide any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this ITS Contract. Telmate LLC, as part of "Contractor", is expressly identified as an intended beneficiary of the terms of this ITS Contract.

KK. [Reserved]

LL. Severability of Provisions

If any provision of this ITS Contract conflicts with governing law or if any provision is held to be invalid or unenforceable by a court of competent jurisdiction, (i) such provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the Parties in accordance with applicable law, and (ii) the remaining terms, provisions, covenants and restrictions of this ITS Contract shall remain in full force and effect.

MM. Code of Conduct

The following terms and conditions supplement and do not replace any provisions required by the rules or policies of ODOC. As used in this section, "Affiliate" of a person means all affiliates, assignees, subsidiaries, parent companies, successors and transferees, and persons under

common control with the person; any officers, directors, partners, agents and employees of such person; and all others acting or claiming to act on their behalf or in them.

(1) Prohibited Practices. Except as disclosed in writing to and accepted or authorized in writing by ODOC, or as otherwise expressly permitted or required by this ITS Contract, Contractor will not, and will assure that its Affiliates do not, in any way:

- (a) Take unfair advantage of ODOC or the Inmates through manipulation, concealment, abuse of privileged information, misrepresentation of material facts or any other unfair practice.
- (b) Mislead ODOC or the Inmates through deceptive acts or practices, false advertising claims, misrepresentations regarding Services of Contractor, or promote unfair methods of competition.
- (c) Engage in any conduct, conspiracy, contract, agreement, arrangement or combination, or adopt or follow any practice, plan, program, scheme, artifice or device similar to, or having a purpose and effect similar to, the conduct prohibited above.

(2) Disclosure and Transparency. Contractor will fully, clearly, completely, and adequately disclose to ODOC the services and goods it provides and all forms of income, compensation, or other remuneration it receives or pays or expects to receive or pay under or otherwise in connection with the ITS Contract. The manner in which Contractor gets paid and pays ODOC will be transparent and understandable to ODOC.

(3) Conflicts of Interest. Contractor and Affiliates will perform their duties using their best impartial judgment in all matters affecting ODOC. A conflict of interest occurs when Contractor or its Affiliate has a personal interest or is involved in an activity that could interfere with Contractor's ability to perform its Services in an objective, impartial and effective manner. An apparent conflict of interest occurs when personal interests or activities could lead others to doubt the objectivity or impartiality of ODOC or of Contractor or its Affiliates. To maintain independence of judgment and action, Contractor and Affiliates will avoid conflict of interest or an appearance of conflict that might arise because of economic or personal self-interest, except as disclosed in writing to and consented in writing by ODOC. The Contractor's disclosure to ODOC may include suggestions for mitigating or managing a conflict of interest, such as communications barriers with conflicted individuals. While it is impossible to list all situations that could constitute a conflict of interest, the following are some common examples:

- (a) Using property or non-public information of ODOC or Inmates, or an Affiliate's position with or relationship with Contractor, for personal gain of the Contractor or Affiliate (other than compensation to Contractor expressly provided in the ITS Contract).
- (b) Having an ownership or economic interest in a company that does business with Contractor or an Affiliate, where the owner or interested person is in a position to influence Contractor's or ODOC's relationship with the company.
- (c) Having the representative of Contractor to ODOC be an employee of ODOC who has authority over the Contractor or Procurement.
- (d) Contractor or an Affiliate of Contractor employing a former employee of ODOC who assisted in preparing the Procurement.

(4) Confidential Information. Contractor and Affiliates will use the property and information of ODOC and of Inmates solely at the request of ODOC or

for the benefit of ODOC and its Inmates, subject to the terms and conditions of the ITS Contract. Affiliates of Contractor will not use property and information of ODOC and of Inmates for personal benefit, nor will they take such information or property with them when they cease to be Affiliates of the Contractor.

(5) Use of Funds or Assets. To the extent it uses funds and assets of the State of Oregon under the ITS Contract, Contractor will not, directly or indirectly:

- Use funds or assets for any purpose which would be in violation of any applicable law or regulation.
- Make contributions to any political candidate, party, or campaign either within or without the United States.
- Establish or maintain a fund, asset, or account that is not recorded and reflected accurately on the books and records of Contractor or the State of Oregon.
- Make false or misleading entries in the books and records of Contractor or the State of Oregon, or omit to make entries required for these books and records to be accurate and complete.
- Effect a transaction or make a payment with the intention or understanding that the transaction or payment is other than as described in the documentation evidencing the transaction or supporting the payment.

(6) Marketing Practices. Except as authorized in writing by ODOC, Contractor will assure that all relationships with its Affiliates and business partners relating to the State of Oregon are conducted at arms-length using criteria approved by ODOC and are based on fairness and the best interests of ODOC and its Inmates.

In any dealings with a supplier, customer, government official, or other person or entity, Contractor or its Affiliate will not request, accept, or offer to give any payments, gifts, trips, kickbacks, or other significant things of value, the purpose or result of which could be to influence the bona fide off-site healthcare received by ODOC and its Inmates or that may be construed as swaying ODOC's Procurement of the ITS based on other than the merits of the evaluation criteria in the Procurement. For this purpose, a "significant thing of value" will mean a thing that a person could not lawfully receive or be given as an employee of ODOC.

In any dealings with a supplier, customer, government official, or other person or entity for or on behalf of ODOC and its Inmates or in connection with a procurement, Contractor and its Affiliates will not exchange business gifts, meals, entertainment, or other business courtesies that are intended to interfere, or are in a magnitude that may have the effect of interfering, with the recipient's duty to act in the best interests of ODOC and its Inmates or to interfere with the recipient's business judgment.

Contractor represents and warrants to ODOC that Contractor and its Affiliates complied with the Code of Conduct in this Section MM in connection with the RFP under which this ITS Contract was issued. The Provisions of this Code of Conduct do not alter any stricter or different guidelines or prohibitions of ODOC.

Attachment #2 – Commission and Rates

I. COMMISSION

A. Contractor shall pay to ODOC a base commission of \$750,000 per quarter. In addition to the base commission, Contractor shall pay an additional commission to ODOC of 50% of quarterly gross revenue on all Contractor provided inmate telephone equipment and of quarterly profits on all Enhanced Services over \$1.5 million in the aggregate generated from all Services Contractor provides under this Contract in all Facilities throughout the State of Oregon at the end of each quarter.

Contractor shall pay the base commission and additional commission to ODOC within five (5) business days of the end of each quarter and shall notify the ODOC Contract Administrator in writing of the amount and date of each payment. Any commissions not paid to ODOC by Contractor when due shall bear interest at the rate of one and one-half percent (1 1/2%) per month or, if less, the maximum rate allowed by law, until the same is paid in full. Along with the commission payments, Contractor shall provide a report of quarterly revenue, broken down by the percent of the type of call, into percentage of collect calls, debit calls (calls made using monies held in an inmate ITS account), prepaid calls, and percent of Enhanced Services.

B. Beginning on each annual anniversary date of the completed and signed contract, Contractor and ODOC will meet to determine whether to continue the fee structure as contracted, or whether an equitable adjustment to the commission rate and other contract terms is warranted if, due to future laws, regulations, other governmental mandates, or additional correctional and security needs, the Contractor's cost of providing the ITS is materially increased, or the rates that the Contractor may charge to called parties are materially decreased. The Contractor must justify any adjustments it requests.

C. Following consideration of Contractor's justification, at ODOC's sole discretion negotiations may be instituted for an amendment to adjust the fee structure to accommodate ODOC goals. Should ODOC decide to engage in negotiations, fee payments will continue as originally contracted until an alternative agreement is reached; if the parties cannot reach agreement, ODOC may terminate this ITS Contract. If ODOC declines to engage in negotiations or declines to terminate the ITS Contract, fee payments will continue as originally contracted.

II. RATES

A. Per call price rate structure for individual inmate calls will be a flat rate per minute as negotiated between the parties and memorialized in a written instrument between the Effective Date and the date of installation. In the event that the parties do not reach an agreement, the rates shall be as outlined in this Section A.

Rates	setup fee	per min	30 min call
Collect/Prepaid Collect			
Local		\$ 0.13	\$ 3.90
Intralata		\$ 0.17	\$ 5.10

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Intrastate		\$ 0.17	\$ 5.10
Interstate		\$ 0.65	\$ 19.50
International	12.00	\$0.00	\$ 0.00
Debit Rates			
Local		\$ 0.085	\$ 2.55
Intralata		\$ 0.15	\$ 4.50
Intrastate		\$ 0.15	\$ 4.50
Interstate		\$ 0.40	\$ 12.00
International		\$ 0.50	\$ 15.00

B. All Taxes, fees, surcharges and associated costs per call will be included in debit and collect/pre-paid rates. Neither the Contractor nor any of the Contractor's subcontractors or associates may add back-end charges to the debit and collect/prepaid call costs.

C. Contractor shall not charge fees of any type for funds deposited by friends, family, or an Inmate into an ODOC inmate debit account or Prepaid Collect account, regardless of the method of deposit, including but limited to kiosk, mail, in person, or through the web.

D. Contractor will guarantee all fees, rates, retention, discounts, and other compensation elements set forth in this Attachment 2 for the Services performed under this ITS Contract from the effective date through June 30, 2015. Contractor will not be compensated for Services performed under this ITS Contract by any other agency or department of the State of Oregon.

E. Rate and fee charges for this ITS Contract are the maximum rates, prices and charges allowed during the Initial Term of this Contract.

F. Contractor has exclusive control over all billing of Local, IntraLATA, InterLATA, and international long distance.

Attachment #3 – Statement of Work**I. DEFINITIONS**

The definitions in OAR 291-130-0006 are incorporated by reference herein and will apply to this ITS Contract except as modified herein. For purposes of this ITS Contract:

"Alternate Equipment" means equipment or methods of implementation and maintenance utilized when conditions make it difficult or extremely expensive to provide ITS and Enhanced Features to existing and new Facilities.

"Enhanced Services" means goods and services other than those required by the ITS provided by Contractor to ODOC inmates including, but not limited to, electronic mail, video messaging, inmate handheld devices sold by ODOC commissary, the ability to download materials to handheld devices, canteen, kiosks, commissary and trust programs, and e-messaging.

"Equipment" means all equipment installed or made available by Contractor in connection with the delivery of the Services, including, but not limited to, the Inmate payphones, monitoring and recording system, kiosks, voicemail platform, voice biometrics system, multimedia players, canteen and trust software, and overall software and platform infrastructure.

"Inmate" means a person who is under ODOC's supervision and who is not on parole, probation, or post-prison supervision status.

"Institutions" shall mean any ODOC Institutions which house Inmates for whom ODOC is required to pay medical expenses. Designated Institutions are identified in Attachment 7.

"Like New" means any Equipment that is refurbished, at a minimum, to all original factory specifications. Refurbishing shall be done by Contractor or its contracted representatives at a qualified refurbishment facility. Appearance and operation of the Equipment shall be the same as new.

"OAR" means the Oregon Administrative Rules.

"ORS" means the Oregon Revised Statutes.

"PAN" means an ODOC Inmate's Calling List.

"PIN" mean an ODOC Inmate Personal Identification Number

"PREA" means Prison Rape Elimination Act.

"Prepaid" or "Prepaid Collect" refers to telephone accounts or calls specific to a particular telephone number where the cost for the calls has been paid in advance of call placement.

"Turn Key" means a system that is supplied completely finished and ready to operate at the "turn of a key". No additional installation, assembly, setup, or equipment is needed for full function and operation.

II. ITS SYSTEM AND EQUIPMENT

A. ITS System

1. Contractor shall provide, install, and maintain at Contractor's expense, all Equipment, servers, work stations, Inmate telephones, telephone lines, cabling, recording equipment, and all other Incidentals necessary to provide ITS Services. The ITS shall run on Contractor's geographically dispersed data centers, as well as Amazon's Elastic Compute Cloud (Amazon EC2) as an emergency backup. Contractor shall provide ODOC Inmate telephone Services in a fully integrated, Turn Key system for all ODOC existing Facilities, and any other Facilities that are either constructed or acquired by ODOC during the course of the Contract. The ITS system shall be available for access from any ODOC computer with internet access.
2. The Contractor provided ITS system must provide industry standard features that will allow ODOC Inmates to make calls to local, Intra-LATA, Inter-LATA, interstate and international telephone numbers by means of collect, Prepaid Collect, and debit calling options.
3. All Equipment, including, but not limited to, all Inmate telephones, must be new or "Like New". Contractor shall use Equipment that is identical to, equivalent to or better than the equipment currently installed and in place at each Facility. ODOC may consider Alternate Equipment in situations where the originally described Equipment will not fulfill ODOC's requirements and:
 - a. Conditions make it difficult or extremely expensive to provide standard cable or power within ODOC existing Facilities. ODOC may allow Contractor to provide Alternate Equipment or methods of implementation to provide Inmate telephone service to these locations.
 - b. The ITS Contract Administrator has approved use of the Alternate Equipment.
4. Contractor retains ownership of all Equipment and necessary components required to provide the ITS system.
5. Contractor shall update all software and hardware used in connection with the ITS System. All monitoring and recording systems must be compatible with the most current existing version of Microsoft Windows operating system utilized by ODOC.
6. The ITS System must provide alphabetical and classified directories in approved ODOC locations.
7. The ITS System must have the capability to assign security levels, allow simultaneous log in on different computers, and generate an audit trail of ODOC users logging into the system.
8. The ITS System must allow ODOC staff to set the duration of calls and record call durations to any destination number.
9. Contractor shall provide automated Inmate customer service, Inmate voicemail, locations for Prepaid calling and trust fund deposits, a secure PREA and Crime Tip voicemail system, real-time collect calling to cell phones, free live call monitoring and a comprehensive Advanced Prepaid Calling Program.
10. Contractor shall configure the ITS to allow debit and Prepaid calling accounts on specific numbers.

B. Contractor ITS Software Platform

1. The ITS platform must be a complete, fully operational, integrated web-based state-wide multi-facility inmate telephone system, capable of performing on ODOC wireless laptops.
2. The ITS must include voice biometrics for all Inmates using Voice Authentication Biometric Technology to verify the identity of the Inmate caller throughout the telephone conversation.
3. The ITS System must provide full Jail Management System (JMS) integration, including PIN system integration and custom PAN solution. The System must provide a database to store all attorney numbers.
4. The ITS System must include Line Information Databases which identify nomadic VOIP services (like Magic Jack) and report these calls to the ODOC investigative staff.
5. The ITS System must provide a complete KITE solution for recording and resolving inmate phone Kites and Inmate voicemail capabilities with the ability for ODOC staff to broadcast voicemails for disseminating information to Inmates.
6. Provide automated Inmate access to all account balances
7. PREA solution for collecting, escalating and storing reports and crime tip hotlines for Inmates
8. The ITS System must include HTTPS/SSL Web security on the ITS administrative software with a complete multi-facility administrative package and complete speed dial functionality. The System must provide complete logging of administrative actions allowing for complete audio download/CD burning feature.
 - a. Calls to be downloaded as wav or mp3 files which can be played using Windows Media Player or iTunes.
 - b. All calls capable of being stored on CD / DVD, thumb drive, email or on a hard drive.
 - c. Contractor shall provide all CD / DVDs required by ODOC for the duration of the Contract.
9. Contain a complete alert feature, including investigator SMS notification, email notification, and high fidelity recording feature that will channel live calls to an ODOC investigator's phone. Allow Officer on Patrol check in feature and investigator notes feature.
10. Ability to allow ODOC staff unlimited called number blocking.
11. The ITS functionality shall be fully tested by Contractor and supported on Microsoft Windows Internet Explorer 7, Firefox, Chrome and Safari.

C. Contractor ITS Hardware

Contract shall provide the following list of hardware for the ITS:

1. Inmate phones, upgraded microphones for voice biometrics and TTY/TDD devices with manual shutoff switches for phones.
2. Analog to digital VOIP converters and uninterruptible power supplies (UPS devices) and routers.
3. A network to each Facility for all network traffic, including kiosks and phones.
4. Secure hosted offsite servers and data storage at multiple redundant facilities.

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5. Five (5) printers (comparable to or better than the HP 5460 or HP 5580), capable of printing labels directly on printable CDs, one for each existing ODOC investigative office. Contractor shall provide additional printers at locations designated by ODOC, and as ODOC Facilities and offices are added to or expanded. As requested by ODOC, Contractor shall provide small Laser printers at all work stations.
6. Seven (7) laptops with wireless network cards. Five for remote access and two for portability and training purposes.
7. One hundred (100) up-to-date workstations at all ODOC Control points, Investigator desk, Facility Master Control rooms, each telephone room and OIC or Security office. Contractor shall provide additional work stations to locations designated by ODOC and as Facilities and offices are added to or expanded.
8. Keyboard-Video-Mouse (KVM) switches for connection to ODOC keyboards, monitors and computer mice at locations where there is limited space.
9. Public telephone in each Facility lobby for use by visitors for contacting local transportation. The telephone may be a payphone or a standard line limited to local service only.
10. Fourteen (14) cordless Uniden WXL 2077 Waterproof Submersible cordless telephones in ten (10) locations within three (3) buildings with special features turned off. Cordless phones to be compatible with the ITS system and support the same features available on the Inmate phones.
11. Any and all other hardware necessary for ODOC and Inmates to fully utilize all features of the ITS System.

D. ITS Investigator Tools

Contractor shall provide the following investigative tools:

1. The ITS system must allow ODOC security staff to listen to live inmate calls or previously recorded calls from any location or by cell phone. Access to all calls must be through a secure web browser with the ability to simultaneously monitor calls from multiple correctional facilities.
2. The ITS must allow ODOC security staff to add notes to inmate calls or flag calls for follow up and copy calls to a CD of the conversation or obtain a transcript of the call.
3. The ITS must provide the ability for ODOC security staff to receive automated alarms when specific calls are made by email or text messages.
4. At no cost to ODOC, Contractor shall perform Inmate call monitoring.
5. The Inmate / Intake Kiosk must record PIN and PAN submission and incorporate Voice Biometrics. The PIN must then be attached to the approved Voice Biometric file.
6. Any and all other investigative tools necessary for ODOC investigative staff to fully utilize all features of the ITS System.

E. Block Tables and Reports

1. TABLES

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- a. Contractor will manage ODOC requested telephone number blocks, and shall provide the ability for ODOC to place administrative blocks on any telephone number or range of telephone numbers. Contractor shall not change or release information regarding ODOC administrative telephone blocks.
- b. Contractor will maintain a list of attorneys licensed to practice in the state of Oregon from the Oregon Bar Association, referred by ODOC as the "Legal Call list" for all ODOC inmates. Contractor shall provide the ability to ODOC to add out-of-state attorneys and other numbers as needed. Contractor must update the list twice per year at Contractor's expense. Telephone calls to numbers on the "Legal Call List" must be available in the ITS system but will not be monitored or recorded. ODOC will have full access to the Legal Call list.

2. REPORTS

Contractor shall provide the following reporting services:

- a. Instantaneous commission reports.
- b. Full real-time auditing access for 24/7 financial auditing of all transactions up to the last completed call.
- c. Within sixty (60) days of the close of Contractor's fiscal year, an annual inventory of Inmate telephone numbers and location of each number.

F. Customer Service

1. Contractor shall provide, at no cost to ODOC or ODOC Inmates and family and friends, customer service through a secure voicemail system. All voicemail requests are to be monitored by Contractor's customer service representatives located in Ontario, Oregon. All conversations linked to an Inmate shall be recorded.
2. Contractor shall resolve all valid voicemail requests within 24 hours of the initial request. Resolution of an Inmate's issue will be through the Contractor's voicemail system by a Contractor customer service representative as a prerecorded voicemail response and resolved within 24 hours. For issues beyond the Inmates' control, such as lock down, Contractor shall issue a credit for one (1) free call for all lost calls to Inmates and friends and family the same day the issue is received.
3. Contractor shall provide live Oregon-based bi-lingual 24/7 inmate customer service and live Oregon-based 24/7 inmate facility customer service.
4. Contractor's customer service shall provide telephone based and self-service Inmate account deposits.
5. Contractor shall provide training materials (manual and CDs) and training at no cost to all Facilities including in-person onsite training upon request by ODOC. Contractor shall schedule ongoing training to coincide with new features. All training will be at no cost to ODOC.
6. Contractor shall provide a one-page reference sheet for all users.
7. Upon request by ODOC, Contractor shall distribute non-weaponizable PIN cards and conduct group inmate training.
8. Contractor shall provide a Prepaid Plus program providing free calls to new phone numbers for Inmates.
9. Contractor shall provide voice recordings of all Facility names and free voicemail from staff to Inmates.

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10. Contractor's customer service shall review all 3-way calls and provide Inmate fraud detection and prevention services.

III. INMATE ACCOUNTS AND PAYMENT OPTIONS

- A. Contractor shall manage all ODOC Inmate debit and Prepaid accounts, providing complete transparency in all transactions through an automated Prepaid system. Contractor may not outsource this service to a third party.
 1. Contractor may not charge taxes or fees, or any other additional charges to an Inmate's Prepaid / debit account or to a specific Prepaid Collect telephone number specific account.
 2. Contractor may not charge taxes or fees, or any other additional charges to friends and family depositing funds into an Inmate account.
- B. Contractor shall provide options for depositing money by ODOC Inmates and friends and family into an Inmate account or to a specific Prepaid Collect telephone number account including, but not limited to:
 1. Contractor lobby kiosks located in each ODOC lobby for family and friends to deposit funds using credit card, debit card or cash with no added fees.
 2. A secure website for web purchases, moneygrams, Western Union payments, direct billing and personal checks.
 3. Contractor's retail partners with automated kiosks, including but not limited to, Wal-mart and 7-11's, to allow family and friends who do not have credit or debit cards, or live far from the Facility the capability to deposit funds.
 4. Telephone based and self-service deposits by friends and family. Contractor shall require submittal of partial address information, year of birth, and the last 4 digits of social security number when deposits are made using this method. Contractor shall notify Inmates via voicemail when a deposit has been made into the Inmate's account. The voicemail must include the amount of deposit and which type of account, such as Prepaid, destination Prepaid or trust funds.
- C. Contractor shall provide Facilities the ability to release an Inmate's fund balance, without fees, to a Debit MasterCard for immediate use upon an Inmate's release from the ODOC.
- D. Contractor shall track all revenue received for ODOC Inmate Debit accounts, and forward refunds to the ODOC Inmate Trust Unit.
- E. All deposits must be auditable by each Facility.
- F. ODOC Inmates must have the capability to access their account and trust information.
 1. Contractor shall verify the identity of an Inmate with use of the Inmate's PIN number and voice biometrics.
 2. Contractor shall verify an Inmate has sufficient funds to place transactions. If there are sufficient funds, the Inmate account will be electronically debited. If funds are insufficient, the automated system will not place the order.
- G. Contractor shall send weekly invoices of all Inmate transactions to the ODOC Contract Administrator. The invoice must indicate the Inmate name, PIN number, Facility and an itemized summary of the transactions.

IV. ENHANCED SERVICES

Contractor shall provide all platforms and software required to provide the Enhanced Services, and the following programs at no cost to ODOC: state of-the-art automated

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trust fund and Prepaid calling kiosk, Inmate Debit MasterCard Program, all system integration with the JMS system and the ODOC's commissary systems, automated Inmate customer service, Inmate voicemail, locations for Prepaid calling and trust fund deposits, a secure PREA and Crime Tip voicemail system, real-time collect calling to cell phones, free live call monitoring and a comprehensive advanced Prepaid calling program. Contractor retains ownership of all Equipment and necessary components required to provide the Enhanced Services. Contractor shall maintain and update all software and hardware used in connection with the Enhanced Services rendered to all Facilities.

A. Commissary and Trust Software

1. Commissary software must utilize Scantron for inmate ordering support and KeepTrak software for commissary order fulfillment.
2. DirectDebit inmate real-time telephone interface and DirectSales inmate Pre-Paid Phone Interface features.
3. Contractor to provide nightly and live interfaces with ODOC offender management system to include: inmate locations, inmate updates; and an ODBC interface for external access to the ODOC commissary database.

B. Kiosks

Contractor shall provide the following kiosk types at each ODOC institution. ODOC staff will determine the number and location of kiosks at the time of implementation. Additional kiosks may be added or removed during the life of the Contract upon written authorization from ODOC. Changes in the number of kiosks does not require an amendment.

1. Inmate / Intake Kiosk

- a. Install KCN Edge kiosks with satellite connectivity packages for music selection and downloading within each Facility.
- b. Provide electronic messaging (E-Messaging) and trust account inquiry support.
- c. Provide commissary ordering, collection and processing of order requests.
- d. Provide a secure website for friends and family to send electronic messages to inmates with customizable word, sender and recipient filters to allow messages to be automatically identified and rated by ODOC investigators.
- e. Provide an administrative interface for ODOC security staff to review all messages and photos for approvals or denials, and audit trail. Provide the Data Detective reporting interface to allow visual browsing by ODOC security staff of the relationships between Inmates' depositors, and individuals the Inmate communicates with via Secure Mail.
- f. Contractor shall archive all e-messages for the life of the contract for reporting and retrieval by ODOC.
- g. Contractor shall provide routine updates to all software and hardware used in connection with the ITS system rendered to all Facilities:

2. Lobby Kiosks

- a. Lobby kiosk to be located within the lobby of each Facility. Lobby kiosks must be capable of accepting cash, credit and debit cards from family and friend members, and be interlinked to allow cross-facility deposits to

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an Inmate Trust account within any Facility. Lobby kiosks must accept payments within an Inmate's account for Trust payments, restitution and medical payments, telephone account payments, and visitation scheduling.

b. Contractor accepts all risk of counterfeit bills and credit card fraud.

3. Inmate Music Kiosk and Handheld Device

- a. Music Warden kiosk to be located in all Facilities allowing ODOC Inmates to view music catalogs/library of 6 million individual songs from Universal, Sony, EMI, Warner, and independent artists from the Independent Online Distribution Alliance, and download music selections to an Inmate's handheld device. The music library must contain filters for ODOC security staff to remove explicit content.
- b. The handheld device must be manufactured with a clear plastic casing with no recording capability or moving parts. The handheld device must have built in theft protection and allow ODOC security staff to disable an Inmate's music player.
- c. The handheld device must be capable of downloading photos, email, educational content and rehabilitative programming.
- d. Contractor shall provide all handheld devices and downloads sold to ODOC Inmates thorough the ODOC commissary.

C. Video Visitation

1. Contractor shall provide a web browser and video visitation equipment allowing for live remote and local visitation scheduling and visitation with Friends and Family.
2. Full administrative integration between the ITS system and video visitation. The ODOC security console must be capable of terminating live visitations, and allow recording and auditing of video visits at any time via Contractor provided web browser.

D. Training

Contractor shall:

1. Provide initial new product and refresher training to ODOC personnel as requested by ODOC on the operation of monitoring, recording and investigative software systems at Contractor's expense.
2. Provide on-site training to all required ODOC personnel regarding system software and hardware upgrades.
3. Provide training to all Facilities and security staff personnel as requested and scheduled by ODOC for the life of the Contract.
4. Provide ITS training via live classroom, interactive web seminars, and hardcopy training manuals.

E. Implementation

1. The Contractor shall install and test the ITS at no cost to ODOC.
2. The Contractor shall use best efforts in providing a seamless transition during the implementation phase with minimal downtime in inmate telephone services.
3. Contractor shall reimburse ODOC for the cost of ODOC's personnel time, travel, and per diem involved in the escort and security during installation, the quality assurance review, and acceptance testing of the ITS system. ODOC

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estimates this cost at \$50,000.

4. Contractor shall provide free calls to Inmates on the day of changeover to ease the transition and test of line capacity for ODOC inmates and staff.
5. Contractor shall test all Contractor-provided software and hardware installed on ODOC systems to access or operate the ITS for security risk, and obtain the approval of the ODOC Information Technology (IT) unit prior to installation.
6. Contractor shall work with the Incumbent Department of Administrative Services Contractor for the removal of incumbent's equipment and transfer of all required data to the ITS system.

H. System Maintenance

1. Contractor shall provide all upgrades of the ITS system needed to meet performance guarantees throughout the life of the Contract, including but not limited to, ODOC provided equipment when replacement is required, expansion of the ITS, upgrades in ODOC or Contractor's software system, networks or cabling used to access the ITS.
2. ODOC is not responsible for any costs associated with the implementation or ongoing maintenance of this ITS. ODOC will provide at its own expense certain equipment and facilities to support the Services covered by the Contract, such as adequate floor or wall space, electricity (in the proper voltage), support structures and a clean environmentally climate-controlled area.
3. Contractor shall provide additional internet bandwidth as required due to increased Inmate population or new Facilities.
4. Contractor shall include major hardware and software updates to the ITS system biannually at no cost to ODOC. Contractor shall thoroughly test and obtain ODOC approval of all updates prior to implementation. Contractor shall schedule updates during low activity periods, with minimal, or no interruption of service.
5. Contractor shall provide onsite administrators, as well as full remote diagnostics, programming, polling and system alarm reporting.
 - a. Remote diagnostics must provide all statistic reporting vena emails and text messages every 30 minutes and the reports on the status of all phone stations. System to automatically send an alert to Contractors administrators and ODOC ITS users if call parameters fall outside the average call pattern.
 - b. Remote programming must be through a centralized call processing system monitored 24 hours, 7 days a week and notifies Contractor's technicians to correct issues.
 - c. Contractor shall provide onsite maintenance for Inmate phone repairs, damage to Equipment or server, switch or associated hardware failure.
 - d. Contractor shall provide an onsite technician within two (2) hours for minor system problems, such as a single telephone failure; for routine service calls, service will be provided within four (4) hours from the request. Contractor shall provide an online public ticket system to ensure all issues are trackable by ODOC personnel.
6. Contractor shall provide seven (7) full time and three (3) part time onsite technicians/site administrator technicians to be located near Salem, Tillamook, Portland, Lakeview, Madras and Coos Bay.

7. Contractor shall provide help desk support and customer service to the Facilities 24 hours a day, 7 days a week. Support must include but is not limited to any and all questions regarding the use of the ITS, lobby kiosk system, debit cards, Prepaid calling, operator services, Inmate phones, web browser.
8. Contractor shall provide a single 800 number for customer service, as well as an integrated ticket system which will create an auditable trail of all request, provide aging reports and response times
9. If a problem can be repaired remotely, Contractor shall notify the affected Facility within 15 minutes of reported problem with Contractor's planned resolution, and provide status updates every 30 minutes.

V. GENERAL REQUIREMENTS

A. Mandatory Meetings:

Representatives of the Contractor and ODOC shall formally meet not less than annually on a face to face basis and conference quarterly by telephone, to facilitate problem resolution and to review the operational status of the terms of this Contract. Face to face meetings will be held at ODOC's Administration Headquarters.

1. Routine problems may be handled verbally, if both parties agree, and resolved within a reasonable time frame; the resolution shall be documented in writing within five (5) working days by the parties.
2. Significant problems shall be fully documented by both parties and resolution given a high priority by both parties; failure to respond timely may result in the Department seeking remedial action in accordance with Sections XIII.

B. Notice

All notice required given by the parties hereunder must be given by mail to the individuals at the addresses set forth below. Either party may from time to time designate in writing a substitute persons(s) or address to whom such notices are to be sent without formal amendment to the Contract:

To ODOC:
Kelley Morton, Contract Administrator
Oregon Department of Corrections
2575 Center Street NE
Salem, OR 97301

To the Contractor:
Pinnacle Public Services, LLC
1108 SE 6th Street
Ontario, OR 97914

With a copy to
Bonnie Hommon, Procurement Specialist 3
Purchasing Unit
Oregon Department of Corrections
3601 State Street
Salem, OR 97301

With a copy to
Legal Department
Telmate, LLC
234 Front Street, 2nd Floor
San Francisco, CA 94111

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C. Additional Requirements

Contractor shall:

1. Provide such personal background data as is required by ODOC on any Contractor personnel, including subcontractors intending to enter an Facility;
2. Promptly report to ODOC any manufacturer price reductions, model changes, and product substitution where substitution price is a factor;
3. Provide, within sixty (60) days of the close of Contractor's fiscal year, an annual inventory of telephone numbers and location of all Inmate telephones at Facilities;
4. Provide, or reimburse ODOC for, all necessary forms, pamphlets and postings, including but not limited to PIN sheets, PAN forms and repair request forms.
5. Post and maintain accurate and current call rates, dialing instructions and instructions for service request postings at each telephone or bank of telephones. All postings must be approved by the ODOC Contract Administrator prior to posting.
6. Provide system information pamphlets for inmates and friends and family which include accurate and current call rates and instructions for calls, deposits, and contact information. Contractor shall also provide and maintain all required bulletin boards or support structures.
7. Provide and maintain a minimum of one (1) public payphone in each Facility lobby.

VI. MONITORING, AUDITS, AND EVALUATION**A. Contract Records**

The Contractor and all Subcontractors shall maintain a complete file of all records, documents, communications, and other materials which pertain to the operation of the ITS or the delivery of services under this Contract sufficient to disclose fully the nature and extent of Services provided to the ODOC. These records shall be maintained according to generally accepted accounting principles, must be easily separable from other contractor records, and must provide sufficient detail to reflect services rendered to ODOC. Notwithstanding Section Q of Attachment 1, Contractor will retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for the minimum of the period required by applicable law, or until the conclusion of any audit, controversy or litigation arising out of or related to this ITS Contract, whichever date is later.

B. Monitoring

The Contractor shall permit ODOC and any other duly authorized agent or governmental agency ("monitoring agency"), to monitor all activities conducted by the Contractor and all Subcontractors pursuant to the terms of this Contract. As the monitoring agency may in its sole discretion deem necessary or appropriate, such monitoring may consist of internal evaluation procedures, examination of program data, special analyses, on-site checking, formal audit examinations, or any other reasonable procedures. The monitoring agency shall perform all such monitoring in a manner that will not unduly interfere with Contractor's provision of Services.

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1. The Contractor shall allow duly authorized agents or representatives of ODOC, the State or federal government access to the Contractor's premises or a Subcontractor's premises, during normal business hours, to inspect, audit, monitor, or otherwise evaluate the performance of the Contractor's or Subcontractor's activities and shall forthwith produce all records requested as part of such review or audit. In the event a right of access is requested under this Section, the Contractor or the Subcontractor shall upon request provide and make available staff to assist in the audit or inspection effort, and provide adequate space on the premises to reasonably accommodate the State or Federal personnel conducting the audit or inspection effort. All inspections or audits shall be conducted in a manner as will not unduly interfere with the performance of the Contractor's or Subcontractor's activities.
2. To the extent feasible, ODOC shall coordinate monitoring activities with other state and federal agencies to minimize duplicative review activity and maximize productive use of ODOC and Contractor resources. ODOC reserves the right to deem Contractor compliance with individual requirements under this Contract based on satisfactory review by other recognized monitoring entities. Criteria and policies and procedures for such deemed compliance shall be determined by ODOC; the Contractor shall be provided opportunity for input in the development of such criteria, policies, and procedures.
3. The Contractor shall, as soon as is practical and no later than sixty (60) calendar days after a notice of deficiencies is received, unless justified and agreed upon by ODOC, comply with any recommendations made in writing by ODOC, pursuant to Contract items found not in compliance as a result of any authorized monitoring report or audit. Contractor shall submit a written plan to correct cited deficiencies and a time frame for completion of the plan to ODOC within fifteen (15) working days after receipt of the notice of deficiencies. ODOC may extend or reduce the time frame for corrective action when it is reasonable and advisable to do so.

VII. HOLD HARMLESS

Contractor agrees to place in any of its Subcontract Agreements pertaining to the ITS, language to the effect that Subcontractor(s) agree to hold harmless both ODOC and Inmates in the event the Contractor cannot or will not pay for services performed by the Subcontractor(s) pursuant to the ITS Contract. The hold harmless provision shall survive the termination of this Contract and the Subcontract Agreement, for services rendered prior to the termination thereof, regardless of the cause giving rise to termination.

Attachment #4 – Insurance Requirements

During the term of this Contract, or such other time period provided herein, the Contractor shall maintain in force at its own expense, each insurance coverage or policy noted below:

1. Workers' Compensation

All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirements for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements.

2. Professional Liability/Errors & Omissions

Errors and Omissions Insurance, Professional Liability Insurance, and Managed Care Services Liability Insurance (including employed agents) covering damages caused by error, omission, or negligent acts of Contractor or its agents relating to the Services. Combined single limit per occurrence must not be less than \$1,000,000. Each annual aggregate limit must not be less than \$2,000,000.

3. General Liability

General Liability Insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 each occurrence for Bodily Injury and Property Damage. This insurance must include personal injury coverage, contractual liability coverage for the indemnity provided under the contract and products/completed operations liability. Combined single limit per occurrence must not be less than \$1,000,000 or the equivalent. Each annual aggregate limit must not be less than \$2,000,000, when applicable. The policy, or an endorsement/amendment to the policy, must provide that the State of Oregon, Department of Corrections and its divisions, officers and employees are "Additional Insureds" under the policy, but only with respect to the Contractor's services to be provided under this Contract.

4. Employee Dishonesty and Depositors Forgery

Employee Dishonesty and Depositors Forgery coverage for state-owned property in the care, custody and control of the Contractor. Coverage limits must not be less than \$1,000,000. The policy must include as loss payee or additional insured the State of Oregon, Department of Corrections.

5. "Tail" Coverage

If any of the required liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of the contract for a duration of 24 months or the maximum time period the Contractors insurer will provide such if less than 24 months. Contractor is responsible for furnishing certification of "tail" coverage as described. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the Effective Date of the Contract.

6. Notice of Cancellation or Change

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without 30 days written notice from the Contractor or its insurer(s) to the Department of Corrections.

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7. Certificates of Insurance

As evidence of the insurance coverages required by this Contract, the Contractor shall furnish acceptable insurance certificates to the Department of Corrections, Contracts Unit, 3601 State Street, Suite 280, Salem, OR 97301-5780 prior to execution of the contract. The certificate must specify all of the parties who are Additional Insureds. Insuring companies or entities are subject to State acceptance. If requested, Contractor shall provide complete copies of insurance policies, trust agreements, etc. to the State. Contractor is financially responsible for all pertinent deductibles, self-insured retentions and self-insurance.

Attachment #5 – Contractor Assurance**1 Implementation**

- a. Contractor shall complete the implementation and conversion process for the ITS system on or before July 1, 2012 from the date of the fully executed contract. Contractor is solely responsible for all associated costs for the ITS system implementation and conversion.
- b. Contractor shall coordinate with the ODOC Project Manager and Contract Administrator to allow for minimal disruption of the inmate telephone service. The ODOC Project Manager will provide in writing any required change orders, approvals and the final signature of acceptance for the conversion at each Facility.
- c. ODOC will provide all access and escort services to Contractor during the conversion and implementation of the ITS system.

2 Contractor Customer Service

- a. Contractor shall assign a full time employee to each Facility, or in close proximity to each Facility. Contractor shall handle Customer Service support for family and friends and ODOC security staff in real-time.
- b. Contractor shall provide service to ODOC within a two (2) hour window, 24 hours a day, seven (7) days a week for Facility ITS system support and inmate family and friends.
- c. Contractor's liaison to ODOC for all matters pertaining to the ITS system will be the Director of Operations.

3 Central Call Processing

- a. Contractor shall locate call processing servers and digital call recording storage equipment in multiple secure offsite data centers with full redundancy of all power and Equipment.
- b. Contractor's IT staff shall monitor and maintain processing and recording equipment twenty-four (24) hours, seven (7) days a week.
- c. Contractor shall ensure that no call recording becomes lost or unavailable.

4 ITS System

- a. The ITS system must be 100 percent web based and allow access from any computer with internet access for all approved ODOC ITS system users.
- b. The ITS system must allow users to control all system and inmate activity across multiple facilities from a single application.
- c. Contractor shall include major hardware and software updates to the ITS system at no cost to ODOC. Contractor shall thoroughly test all updates and obtain ODOC approval prior to implementation. Contractor shall schedule updates during low activity periods, with minimal or no interruption of service.
- d. Contractor shall ensure 99.9 percent or greater uptime and connectivity of all inmate calls, excepting out Force Majeure events.

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Attachment #6 – Code of Ethics

As an employee, volunteer or contract service provider of the Oregon Department of Corrections, I will value and maintain the highest ideals of professional and compassionate public service by respecting the dignity, cultural diversity and human rights of all persons, and protecting the safety and welfare of the public.

I accept that my fundamental duty is to serve the public; to safeguard lives and property, to protect Department of Corrections incarcerated persons against deception, oppression or intimidation, violence or disorder.

I will be constantly mindful of the welfare of others. To the best of my ability, I will remain calm in the face of danger and maintain self-restraint in the face of scorn or ridicule.

I will be honest and truthful. I will be exemplary in obeying the law, following the regulations of the Department, and reporting dishonest or unethical conduct.

I acknowledge that I have been selected for a position of public trust and I will constantly strive to be worthy of that trust and to be true to the mission and values of the Department of Corrections.

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Attachment #7 – Designated Institutions

ODOC reserves the right to add or remove institutions throughout the term of the Contract. Changes to the list of Designated Institutions shall not require amendment to the Contract.

Coffee Creek Correctional Facility, 24499 SW Grahams Ferry Rd. Wilsonville, OR 97070
Columbia River Correctional Institution, 9111 NE Sunderland Ave., Portland, OR 97211
Deer Ridge Correctional Institution, 3920 East Ashwood Road Madras, OR 97741
Eastern Oregon Correctional Institution, 2500 Westgate, Pendleton, OR 97801
Mill Creek Correctional Facility, 5465 Turner RD., SE Salem, OR 97301
Oregon State Correctional Institution, 3405 Deer Park Drive, SE, Salem, OR 97310
Oregon State Penitentiary, 2605 State St., Salem, OR 97310
Powder River Correctional Facility, 3600 13th Street, Baker City, OR 97814
Santiam Correctional Institution/Mill Creek Correctional Facility, 4005 Aumsville Hwy SE, Salem, OR 97301
Shutter Creek Correctional Institution, 95200 Shutters Landing Lane, North Bend, OR 97459
Snake River Correctional Institution, 777 Stanton Blvd, Ontario, OR 97914.
South Fork Forest Camp, 48300 Wilson River Hwy, Tillamook, OR 97141
Two Rivers Correctional Institution, 82911 Beach Access Road, Umatilla, OR 97882
Warner Creek Correctional Facility, 20654 Rabbit Hill Road, Lakeview, OR 97630
Future New DOC Institution will be located in Junction City

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Attachment #8 – Portions of Contractor's Proposal

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AMENDMENT #1 to CONTRACT #3999

1. This is Amendment #1 to contract #3999 (as amended from time to time the "Contract") dated April 30, 2012 between the State of Oregon acting by and through its Department of Corrections hereafter called ODOC, and Pinnacle Public Services LLC and Telmate LLC, hereafter collectively called Contractor.

2. Attachment 2, Section I.A, of the Contract is deleted in its entirety and replaced with the following:

"II. RATES

A. Per call rates.

1. All calls except international calls. Per call price rate for individual inmate non-international calls shall be a flat rate of \$ 0.16 per minute.

2. International calls. International calls may be made by debit method only (no collect calls). Per call price rate for individual inmate international calls shall be a flat rate of \$ 0.50 per minute."

3. Except as expressly amended above, all other terms and conditions of the original contract are still in full force and effect. Contractor certifies that the representations, warranties and certifications contained in the original Contract are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

Certification: By signature on this Amendment for Contractor, the undersigned hereby certifies under penalty of perjury that the undersigned is authorized to act on behalf of Contractor and that Contractor is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 (Amusement Device Taxes), 403.200 to 403.250 (Tax For Emergency Communications), 118 (Inheritance Tax), 314 (Income Tax), 316 (Personal Income Tax), 317 (Corporation Excise Tax), 318 (Corporation Income Tax), 321 (Timber and Forest Land Taxation) and 323 (Cigarettes And Tobacco Products) and the elderly rental assistance program under ORS 310.630 to 310.706 and any local taxes administered by the Department of Revenue under ORS 305.620.

PINNACLE PUBLIC SERVICES LLC and
TELMATE LLC

Kevin O'Neill, President

Title

Date

STATE OF OREGON by and through its
DEPARTMENT OF CORRECTIONS

Leonard W. Williamson, Inspector General

Date

APPROVED AS TO LEGAL SUFFICIENCY

/s/ Rick Weisberg, GC (per 5/23/12 e-mail)

APPROVED AS TO LEGAL SUFFICIENCY

/s/ Jonathan M. Ward, AAG (per 05/23/12 e-mail)

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AMENDMENT #2 to CONTRACT #3999

1. This is Amendment #2 to contract #3999 (as amended from time to time the "Contract") dated April 30, 2012 between the State of Oregon acting by and through its Department of Corrections hereafter called ODOC, and Pinnacle Public Services LLC and Telmate LLC, hereafter collectively called Contractor.

2. Specific revisions to the Contract (new language is underlined and deleted language is [bracketed]):

2.1 Attachment #2, Section II.A.3 is added as follows:

"3. Incoming voicemail messages. Contractor shall charge a flat rate of \$1.25 for each voicemail message left for an inmate except there shall be no charge for voicemail messages left by ODOC staff. The maximum allowable length of each voicemail message shall be three minutes."

2.2 Attachment #2, Section II.A.4 is added as follows:

"4. Three-way calls. Contractor shall charge a \$25 fine to an inmate's debit account for each confirmed three-way telephone conversation for which an inmate is a party to. If insufficient funds exist in the inmate's debit account, Contractor shall charge the \$25 fine against the pre-paid account associated with phone number that initiated the confirmed three-way conversation or may create a negative balance on the inmate's debit account."

2.3 Attachment #2, Section II.C is amended as follows:

"C. Contractor shall not charge fees of any type not specifically identified in this Contract for funds deposited by friends, family, or an inmate into an ODOC inmate debit account or Prepaid Collect account, regardless of the method of deposit, including but not limited to kiosk, mail, in person or using the web."

2.4 Attachment #2, Section II.G is added as follows:

"G. Contractor shall charge the following fees per deposit for deposits made to individual inmate trust accounts. The maximum amount of any single trust deposit shall be \$300.

1. \$4.50 for deposits made online, by kiosk (non-cash) or by using an Interactive Voice Response System, for each \$300 or portion thereof so deposited,

2. \$5.50 for deposits made with the assistance of a live operator for each \$300 or portion thereof so deposited,

3. \$2.50 for deposits made at a kiosk using cash, or via Western Union or Moneygram for each \$300 or portion thereof so deposited."

2.5 Attachment #3, Section III.A.1 is amended as follows:

"Contractor may not charge taxes or fees, or any other additional charges not specifically identified in this Contract to an inmate's Prepaid / debit account or to a

specific Prepaid Collect telephone number specific account."

- 2.6 Attachment #3, Section III.A.2 is amended as follows:

"Contractor may not charge taxes or fees, or any other additional charges not specifically identified in this Contract to friends and family depositing funds into an Inmate account."

- 2.7 Attachment #3, Section III.B.1 is amended as follows:

"Contractor lobby kiosks located in each ODOC lobby for family and friends to deposit funds using credit card, debit card or cash with no added fees except for those specifically identified in this Contract."

- 2.8 Attachment #3, Section III.B.2 is amended as follows:

"A secure website for web purchases, Moneygrams, Western Union payments, and direct billing through the local telephone exchange company and personal checks]."

- 2.9 Attachment #3, Section IV.A.1 is amended as follows:

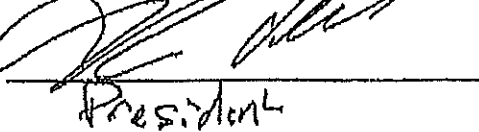
"Commissary software must be compatible for use with kiosks and [utilize] software such as Scantron or similar technology for inmate ordering support and KeepTrak or similar software for commissary order fulfillment. The use of kiosks or Scantron-type technology shall be by mutual agreement of ODOC and Contractor.

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3. Except as expressly amended above, all other terms and conditions of the original contract are still in full force and effect. Contractor certifies that the representations, warranties and certifications contained in the original Contract are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

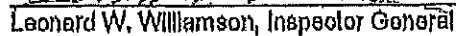
Certification: By signature on this Amendment for Contractor, the undersigned hereby certifies under penalty of perjury that the undersigned is authorized to act on behalf of Contractor and that Contractor is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 (Amusement Device Taxes), 403.200 to 403.250 (Tax For Emergency Communications), 118 (Inheritance Tax), 314 (Income Tax), 316 (Personal Income Tax), 317 (Corporation Excess Tax), 318 (Corporation Income Tax), 321 (Timber and Forest Land Taxation) and 323 (Cigarettes And Tobacco Products) and the elderly rental assistance program under ORS 310.630 to 310.708 and any local taxes administered by the Department of Revenue under ORS 305.620.

PINNACLE PUBLIC SERVICES LLC and
TELMATE LLC


President

Title
Date 6/28/12

STATE OF OREGON by and through its
DEPARTMENT OF CORRECTIONS


Leonard W. Williamson, Inspector General

Date 6/28/12

Approved as to Legal Sufficiency by
Pinnacle Public Services LLC and
Telmate LLC

Approved as to Legal Sufficiency by the
Oregon Attorney General's Office

/s/ Jonathan M. Ward, AAG (per 06/29/12 e-mail)

AMENDMENT #2 to CONTRACT #3999

1. This is Amendment #2 to contract #3999 (as amended from time to time the "Contract") dated April 30, 2012 between the State of Oregon acting by and through its Department of Corrections hereafter called ODOC, and Pinnacle Public Services LLC and Telmate LLC, hereafter collectively called Contractor.

2. Specific revisions to the Contract (new language is underlined and deleted language is [bracketed]):

2.1 Attachment #2, Section II.A.3 is added as follows:

"3. Incoming voicemail messages. Contractor shall charge a flat rate of \$1.25 for each voicemail message left for an inmate except there shall be no charge for voicemail messages left by ODOC staff. The maximum allowable length of each voicemail message shall be three minutes."

2.2 Attachment #2, Section II.A.4 is added as follows:

"4. Three-way calls. Contractor shall charge a \$25 fine to an inmate's debit account for each confirmed three-way telephone conversation for which an inmate is a party to. If insufficient funds exist in the inmate's debit account, Contractor shall charge the \$25 fine against the pre-paid account associated with phone number that initiated the confirmed three-way conversation or may create a negative balance on the inmate's debit account."

2.3 Attachment #2, Section II.C is amended as follows:

"C. Contractor shall not charge fees of any type not specifically identified in this Contract for funds deposited by friends, family, or an inmate into an ODOC inmate debit account or Prepaid Collect account, regardless of the method of deposit, including but not limited to kiosk, mail, in person or using the web."

2.4 Attachment #2, Section II.G is added as follows:

"G. Contractor shall charge the following fees per deposit for deposits made to individual inmate trust accounts. The maximum amount of any single trust deposit shall be \$300.

1. \$4.50 for deposits made online, by kiosk (non-cash) or by using an Interactive Voice Response System, for each \$300 or portion thereof so deposited,

2. \$5.50 for deposits made with the assistance of a live operator for each \$300 or portion thereof so deposited,

3. \$2.50 for deposits made at a kiosk using cash, or via Western Union or Monevgram for each \$300 or portion thereof so deposited."

2.5 Attachment #3, Section III.A.1 is amended as follows:

"Contractor may not charge taxes or fees, or any other additional charges not specifically identified in this Contract to an inmate's Prepaid / debit account or to a

specific Prepaid Collect telephone number specific account."

- 2.6 Attachment #3, Section III.A.2 is amended as follows:

"Contractor may not charge taxes or fees, or any other additional charges not specifically identified in this Contract to friends and family depositing funds into an Inmate account."

- 2.7 Attachment #3, Section III.B.1 is amended as follows:

"Contractor lobby kiosks located in each ODOC lobby for family and friends to deposit funds using credit card, debit card or cash with no added fees except for those specifically identified in this Contract."

- 2.8 Attachment #3, Section III.B.2 is amended as follows:

"A secure website for web purchases, Moneygrams, Western Union payments, and direct billing through the local telephone exchange company and personal checks]."

- 2.9 Attachment #3, Section IV.A.1 is amended as follows:

"Commissary software must be compatible for use with kiosks and [utilize] software such as Scantron or similar technology for inmate ordering support and KeepTrak or similar software for commissary order fulfillment. The use of kiosks or Scantron-type technology shall be by mutual agreement of ODOC and Contractor.

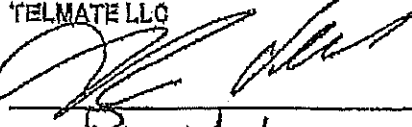
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3. Except as expressly amended above, all other terms and conditions of the original contract are still in full force and effect. Contractor certifies that the representations, warranties and certifications contained in the original Contract are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

Certification: By signature on this Amendment for Contractor, the undersigned hereby certifies under penalty of perjury that the undersigned is authorized to act on behalf of Contractor and that Contractor is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 (Amusement Device Taxes), 403.200 to 403.250 (Tax For Emergency Communications), 118 (Inheritance Tax), 314 (Income Tax), 316 (Personal Income Tax), 317 (Corporation Excise Tax), 318 (Corporation Income Tax), 321 (Timber and Forest Land Taxation) and 323 (Cigarettes And Tobacco Products) and the elderly rental assistance program under ORS 310.630 to 310.706 and any local taxes administered by the Department of Revenue under ORS 306.620.

PINNACLE PUBLIC SERVICES LLC and
TELMATE LLC


President

Title
Date 6/28/12

STATE OF OREGON by and through its
DEPARTMENT OF CORRECTIONS


Leonard W. Williamson, Inspector General

Date 6/28/12

Approved as to Legal Sufficiency by
Pinnacle Public Services LLC and
Telmate LLC

Approved as to Legal Sufficiency by the
Oregon Attorney General's Office

/s/ Jonathan M. Ward, AAG (per 06/28/12 e-mail)

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**E-MAILED**9/27/12**AMENDMENT #3 to CONTRACT #3999**

1. This is Amendment #3 to contract #3999 (as amended from time to time the "Contract") dated April 30, 2012 between the State of Oregon acting by and through its Department of Corrections hereafter called ODOC, and Pinnacle Public Services LLC and Telmate LLC, hereafter collectively called Contractor.

2. Specific revisions to the Contract (new language is bold underlined and deleted language is ~~bracketed and stricken~~):

2.1 Attachment #2, Section A is hereby amended as follows:

COMMISSION

A. Contractor shall pay to ODOC a base commission of \$750,000 per quarter. In addition to the base commission, Contractor shall pay an additional commission to ODOC of 50% of quarterly gross revenue on all Contractor provided inmate telephone equipment and of quarterly profits on all Enhanced ~~(Services)~~ Features over \$1.5 million in the aggregate generated from all ~~(Services)~~ Features Contractor provides under this Contract in all Facilities throughout the State of Oregon at the end of each quarter.

2.2 Attachment #2, Section II.H is added as follows:

H. ODOC Enhanced Features. Cost before commission is as follows:

<u>Product</u>		<u>Cost</u>
<u>1. MP3</u>		
<u>Player</u>	<u>4GB</u>	<u>\$89.99</u>
	<u>8GB</u>	<u>\$119.99</u>
<u>2. Songs</u>		<u>\$1.60</u>
<u>3. Photo</u>	<u>1 Photo</u>	<u>\$0.56</u>
	<u>4 Photos</u>	<u>\$1.79</u>
	<u>15 Photos</u>	<u>\$8.49</u>
	<u>24 Photos</u>	<u>\$9.49</u>
	<u>36 Photos</u>	<u>\$12.99</u>
<u>4. Messaging</u>		
<u>Electronic &</u>		
<u>Paper Form</u>	<u>1 Message</u>	<u>\$0.40</u>
	<u>4 Messages</u>	<u>\$1.39</u>
	<u>20 Messages</u>	<u>\$5.49</u>
	<u>40 Messages</u>	<u>\$9.49</u>
	<u>60 Messages</u>	<u>\$12.49</u>
<u>5. Video</u>		
<u>Visiting</u>	<u>Remote</u>	<u>\$0.56/M/n</u>

6. Scantron Forms. Contractor shall charge a flat rate of \$0.03 per

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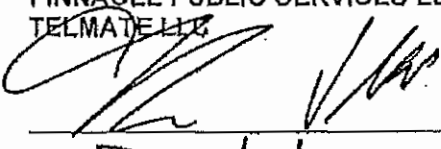
page of the Scantron ordering form, with a maximum allowable charge per individual order form of \$0.06.

7. There shall be no cost to ODOC for commissary orders placed through Kiosk.

3. Except as expressly amended above, all other terms and conditions of the original contract are still in full force and effect. Contractor certifies that the representations, warranties and certifications contained in the original Contract are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

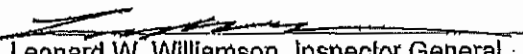
Certification: By signature on this Amendment for Contractor, the undersigned hereby certifies under penalty of perjury that the undersigned is authorized to act on behalf of Contractor and that Contractor is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 (Amusement Device Taxes), 403.200 to 403.250 (Tax For Emergency Communications), 118 (Inheritance Tax), 314 (Income Tax), 316 (Personal Income Tax), 317 (Corporation Excise Tax), 318 (Corporation Income Tax), 321 (Timber and Forest Land Taxation) and 323 (Cigarettes And Tobacco Products) and the elderly rental assistance program under ORS 310.630 to 310.706 and any local taxes administered by the Department of Revenue under ORS 305.620.

PINNACLE PUBLIC SERVICES LLC and
TELMATE LLC



President
Title
9/27/12
Date

STATE OF OREGON by and through its
DEPARTMENT OF CORRECTIONS



Leonard W. Williamson, Inspector General
9/27/12
Date

Approved as to Legal Sufficiency by
Pinnacle Public Services LLC and
Telmate LLC



Kevin O'Neil

Approved as to Legal Sufficiency by the
Oregon Attorney General's Office

/s/ Jonathan M. Ward, AAG (per 09/26/12 e-mail)

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AMENDMENT #4 to CONTRACT #3999

1. This is Amendment #4 to contract #3999 (as amended from time to time the "Contract") dated April 30, 2012 between the State of Oregon acting by and through its Department of Corrections hereafter called ODOC, and Pinnacle Public Services LLC and Telmate LLC, hereafter collectively called Contractor.

2. Specific revisions to the Contract (new language is underlined and deleted language is [bracketed]):

2.1 Attachment #2, Section II.A.4 is added as follows:

"4. Three-way calls, Contractor shall charge a \$25 [fine] service fee to an Inmate's debit account for each confirmed three-way telephone conversation for which an Inmate is a party to. If insufficient funds exist in the Inmate's debit account, Contractor shall charge the \$25 [fine] service fee against the pre-paid account associated with phone number that initiated the confirmed three-way conversation or may create a negative balance on the Inmate's debit account."

3. Except as expressly amended above, all other terms and conditions of the original contract are still in full force and effect. Contractor certifies that the representations, warranties and certifications contained in the original Contract are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

Certification: By signature on this Amendment for Contractor, the undersigned hereby certifies under penalty of perjury that the undersigned is authorized to act on behalf of Contractor and that Contractor is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 (Amusement Device Taxes), 403.200 to 403.250 (Tax For Emergency Communications), 118 (Inheritance Tax), 314 (Income Tax), 316 (Personal Income Tax), 317 (Corporation Excise Tax), 318 (Corporation Income Tax), 321 (Timber and Forest Land Taxation) and 323 (Cigarettes And Tobacco Products) and the elderly rental assistance program under ORS 310.630 to 310.706 and any local taxes administered by the Department of Revenue under ORS 305.620.


PINNACLE PUBLIC SERVICES LLC and
TELMATE LLC



President
Title

10/31/12
Date

STATE OF OREGON by and through its
DEPARTMENT OF CORRECTIONS


Leonard W. Williamson, Inspector General

10/31/12
Date

Approved as to Legal Sufficiency by
Pinnacle Public Services LLC and
Telmate LLC

Approved as to Legal Sufficiency by the
Oregon Attorney General's Office

Not required

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Amendment 5 to Contract 3999

1. This Amendment 5 to Contract 3999 (this "Amendment") is entered into between the State of Oregon acting by and through its Department of Corrections ("DOC"), Pinnacle Public Services, LLC, an Oregon limited liability company ("Pinnacle"), and Telmate, LLC, a Delaware limited liability company ("Telmate"). Pinnacle and Telmate are joint venture partners (collectively, "Contractor").
2. This Amendment is the fifth amendment to the Contract for Inmate Payphone and Associated Inmate Monitoring and Recording Equipment and Services, number 3999 (as amended, the "Contract"), which the parties entered into on April 30, 2012.
3. Under Attachment 1, Section B of the Contract, DOC and Contractor hereby extend the termination date of Contract to June 30, 2017.
4. DOC Contract Administrator. DOC's contract administrator for the Contract is listed below.

Randy Ross, Contract Administrator
Oregon Department of Corrections
2605 State Street
OSP Business Services
Salem, Oregon 97301
Phone: (503) 378-2342
Email: randy.s.ross@doc.state.or.us
5. As hereby amended, the Contract remains in full force. Contractor certifies that the representations, warranties and certifications in the Contract are true and correct as of the effective date of this Amendment with the same effect as though made at the time of this Amendment.
6. Tax certification. By signature on this Amendment for Contractor, the undersigned hereby certify under penalty of perjury that the undersigned are authorized to act on behalf of Contractor and that Contractor is, to the best of the knowledge of the signers, not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 (Amusement Device Taxes), 403.200 to 403.250 (Tax For Emergency Communications), 118 (Inheritance Tax), 314 (Income Tax), 316 (Personal Income Tax), 317 (Corporation Excise Tax), 318 (Corporation Income Tax), 321 (Timber and Forest Land Taxation) and 323 (Cigarettes And Tobacco Products) and the elderly rental assistance program under ORS 310.630 to 310.706 and any local taxes administered by the Department of Revenue under ORS 305.620.

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Pinnacle Public Services, LLC, an Oregon limited liability company

By: 

Printed name: _____

Kevin O' Neil

Title: _____

CEO

Date: _____

06/17/2015

Telmate, LLC, a Delaware limited liability company

By: 

Printed name: _____

Kevin O' Neil

Title: _____

President

Date: _____

06/17/2015

The State of Oregon by and through the Department of Corrections


Daryl Borello, Assistant Director, General Services

Date: _____

6-18-2015

Approved for legal sufficiency under ORS 291.047 and OAR 137-045-0015 by DOJ by email dated 5-29-2015.

291090-GF0284-15

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Amendment 6 to Contract 3999

1. This Amendment 6 to Contract 3999 (this "Amendment") is entered into between the State of Oregon acting by and through its Department of Corrections ("DOC"), Pinnacle Public Services, LLC, an Oregon limited liability company ("Pinnacle"), and Telmate, LLC, a Delaware limited liability company ("Telmate"). Pinnacle and Telmate are joint venture partners (collectively, "Contractor").
2. This Amendment is the sixth amendment to the Contract for Inmate Payphone and Associated Inmate Monitoring and Recording Equipment and Services, number 3999 (as amended, the "Contract"), which the parties originally entered into on April 30, 2012.
3. Under Amendment 2, Section 2.4 of the Contract, DOC and Contractor hereby agree to the change to the deposit fees for deposits made to an individual inmate trust account.

<u>Deposit Amount</u>	<u>Online Fee</u>	<u>Phone Fee</u>	<u>Lobby Kiosks</u>
<u>\$0-\$20</u>	<u>\$4.50</u>	<u>\$4.50</u>	<u>\$4.50</u>
<u>\$20.01-\$100</u>	<u>\$5.75</u>	<u>\$6.75</u>	<u>\$4.50</u>
<u>\$100.01-\$200</u>	<u>\$7.75</u>	<u>\$8.75</u>	<u>\$4.50</u>
<u>\$200.01-\$300</u>	<u>\$9.75</u>	<u>\$10.75</u>	<u>\$4.50</u>

4. As hereby amended, the Contract remains in full force. Contractor certifies that the representations, warranties and certifications in the Contract are true and correct as of the effective date of this Amendment with the same effect as though made at the time of this Amendment.
5. Tax certification. By signature on this Amendment for Contractor, the undersigned hereby certify under penalty of perjury that the undersigned are authorized to act on behalf of Contractor and that Contractor is, to the best of the knowledge of the signers, not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 (Amusement Device Taxes), 403.200 to 403.250 (Tax For Emergency Communications), 118 (Inheritance Tax), 314 (Income Tax), 316 (Personal Income Tax), 317 (Corporation Excise Tax), 318 (Corporation Income Tax), 321 (Timber and Forest Land Taxation) and 323 (Cigarettes And Tobacco Products) and the elderly rental assistance program under ORS 310.630 to 310.706 and any local taxes administered by the Department of Revenue under ORS 305.620.

Pinnacle Public Services, LLC, an Oregon limited liability company

By:

Printed name:

Title:

Date:

Kevin O'Neil

President

11/9/15

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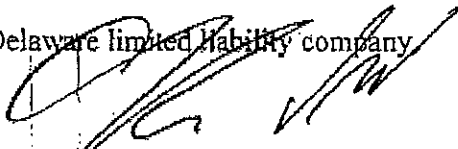
Telmate, LLC, a Delaware limited liability company

By:

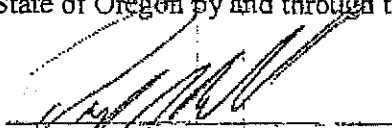
Printed name:

Title:

Date:


Kevin O'Neil
President
11/9/15

The State of Oregon by and through the Department of Corrections


Daryl Borello, Assistant Director, General Services

Date:

11-10-2015

Approved for legal sufficiency under ORS 291.047 and OAR 137-045-0015 by DOJ by
email dated 10-19-2015.
291090-GF1026-15

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Amendment 7 to Contract 3999

1. This Amendment 7 to Contract 3999 (this "Amendment") is entered into between the State of Oregon acting by and through its Department of Corrections ("ODOC") and Pinnacle Public Services, LLC, an Oregon limited liability company ("Pinnacle") and Telmate, LLC, a Delaware limited liability company registered in Oregon ("Telmate"). Pinnacle and Telmate are joint venture partners (collectively, "Contractor").

2. This Amendment is the seventh amendment to the Contract for Inmate Payphone and Associated Inmate Monitoring and Recording Equipment and Services, number 3999, which the parties originally entered into on April 30, 2012 (as amended, the "ITS Contract" or "Contract").

3. Through the Oregon Department of Administrative Services ("DAS"), ODOC and DAS will be conducting a new solicitation to replace the services provided by Contractor. The parties have decided to extend the termination date of the Contract in order to complete that solicitation process, and to amend some other terms.

4. Therefore, the ITS Contract is amended as follows. (Deleted language is sometimes shown by ~~strike-through~~ text, and new language is by **boldface** text.)

4.1 Extension. Section B(2) of Attachment 1 of the ITS Contract is hereby entirely deleted and replaced as follows:

B(2) Unless extended, this ITS Contract will terminate ~~after June 30, 2015~~ **on the earlier of June 30, 2020, or upon completion of the resolicitation of the services, the signing of a new contract, and the transition of the services, whichever occurs first.**

4.2 ODOC's Contract Administrator. ODOC Contract Administrator for this ITS Contract is now:

Charles P. Kliewer
Oregon Dept. of Corrections -- Operations Department Business Administrator
2575 Center Street NE
Salem, OR 97301-4667
Phone: (503) 945-9209
Charles.P.Kliewer@doc.state.or.us
<http://www.oregon.gov/DOC/index.shtml>

4.3 The following language is added to the ITS Contract following the naming of the ODOC Contract Administrator:

ODOC may make changes to the Contract Administrator specified in this ITS Contract by providing written notice to Contractor. Such a change will be effective without the necessity of executing an amendment to this Contract.

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5. ODOC and Contractor will comply with all Federal Communication Commission (FCC) rule changes as applicable to this ITS Contract and the Services. Unless a court order, stay, or ruling precludes the implementation of an FCC rule change, the parties will amend this Contract as necessary to conform and come into compliance with the FCC rule change within any deadline required by the FCC after the rule change becomes final, or within 90 days if no FCC deadline is stated. In addition to other potential changes to the commission under Attachment 2 to the Contract, ODOC and Contractor may negotiate commission rates when an FCC rule changes will impact commissions as required by the ITS Contract.

6. As hereby amended, the Contract remains in full force. Contractor certifies that the representations, warranties and certifications in the Contract are true and correct as of the effective date of this Amendment with the same effect as though made at the time of this Amendment.

7. Tax certification and attestation. The individual signing on behalf of Contractor hereby certifies and swears under penalty of perjury: (a) the numbers shown below are Contractor's correct taxpayer identification; (b) Contractor is not subject to backup withholding because (i) Contractor is exempt from backup withholding, (ii) Contractor has not been notified by the IRS that Contractor is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified Contractor that Contractor is no longer subject to backup withholding; (c) s/he is authorized to act on behalf of Contractor, s/he has authority and knowledge regarding Contractor's payment of taxes, and to the best of her/his knowledge, that for a period of no fewer than six calendar years preceding the Effective Date of this Amendment, Contractor faithfully has complied with: (i) all tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (ii) any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor; (iii) any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (iv) any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions; and (d) Contractor is an independent contractor as defined in ORS 670.600; and (e) the supplied Contractor data is true and accurate.

Pinnacle Public Services, LLC, an Oregon limited liability company

By: 

Printed name:

Kevin O'Neil

Title:

President

Date:

March 13, 2017

Federal tax identification number: 82-0516081

Oregon tax identification number: _____ **REQUIRED**

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Telmate, LLC, a Delaware limited liability company

By: 

Printed name:

Kevin O'Neil

Title:

President

Date:

March 13, 2017

Federal tax identification number: 27-0317304

Oregon tax identification number: _____ **REQUIRED**

The State of Oregon acting by and through the Department of Corrections



Michael Gower, Assistant Director of Operations

Date:

3/22/17

Approved for legal sufficiency under ORS 291.047 and OAR 137-045-0030 by Oregon
Department of Justice Assistant Attorney General by email dated 3-10-2017.
291090-GF0200-17

Amendment 8 to Contract 3999

1. This Amendment 8 to Contract 3999 (this "Amendment") is entered into between the State of Oregon acting by and through its Department of Corrections ("ODOC") and Pinnacle Public Services, LLC, an Oregon limited liability company ("Pinnacle") and Telmate, LLC, a Delaware limited liability company registered in Oregon ("Telmate"). Pinnacle and Telmate are joint venture partners (collectively, "Contractor").
2. This Amendment is the eighth amendment to the Contract for Inmate Payphone and Associated Inmate Monitoring and Recording Equipment and Services, number 3999, which the parties originally entered into on April 30, 2012, as amended from time to time ("Contract 3999" or "Contract"). This Amendment is effective upon signature by the parties and approval as required by law ("Amendment Effective Date").
3. ODOC and Telmate wish to amend the Contract to include Service Level Guarantees and Transition Services as set forth herein.

Therefore, the Contract is amended as follows. (Deleted language is sometimes shown by ~~strike thru~~ text, and new language is by **boldface text**.)

1. Contractor shall meet or exceed the Service Level Guarantees set forth on Attachment 9, Service Level Guarantees, attached hereto.
2. Transition Services. Contractor shall provide transition services to support a responsible and secure transition of Services and ODOC information and data to another service provider or to ODOC ("Transition Services").
 - 2.1. Upon receipt of a notice prior to expiration that ODOC will engage Contractor's Transition Services, or receipt of notice of termination and notwithstanding the reason for termination (whether for cause or without cause and whether by Contractor or ODOC, and whether for all or some Services), Contractor shall continue to provide Services and shall provide Transition Services as described in the Transition Plan (defined below) for the period set in the notice and in the subsequent Transition Plan (the "Transition Period"), provided: ODOC is not in breach of its obligations under the Contract or as set forth in the Transition Plan. Contractor shall continue to receive compensation for all Services rendered during any continuation of the contract and the Transition Period pursuant to the terms of the ITS Contract and the Transition Plan.
 - 2.2. If during the Transition Period Contractor believes ODOC is not in compliance with the foregoing conditions, Contractor shall give ODOC written notice of such noncompliance and ODOC will have fifteen (15) Business Days, or such longer period to which the parties may agree, to correct the noncompliance before Contractor may end the Transition Period and terminate the Services.

Following receipt of the notice of termination (whether or not Contractor or ODOC initiated the termination), Contractor shall not, without ODOC's prior written consent, which will not be unreasonably withheld, transfer, reassign, or otherwise redeploy any of Contractor's personnel from providing Services under this Contract.

2.3. Transition Plan. Contractor and ODOC will outline a Transition Plan, which may be requested pursuant to a notice of termination or in anticipation of the Contract terminating in accordance with its terms. The Transition Plan may serve as an update to or a confirmation of a Transition Services Task in the Statement of Work. Contractor shall deliver a detailed Transition Plan within thirty (30) Calendar Days of ODOC's written request, or otherwise within a timeframe agreed upon by the parties, for ODOC review. The Transition Plan will not be effective until it is approved by the Oregon Department of Justice ("DOJ"). This plan will determine the nature and extent of Contractor's Transition Services obligations and detail the transfer of Services and ODOC information and data, but must not reduce Contractor's obligation under this Contract to provide all Services necessary for Transition. The Transition Period will commence on the start date set in the DOJ-approved Transition Plan; provided, however, if Contractor does not deliver an acceptable Transition Plan on or before the Contract termination date, then the parties will abide by a draft of the plan promulgated by ODOC until the Transition Plan is approved by DOJ. The Transition Plan must address the respective Tasks and Deliverables to be completed by each party under the Transition Plan, and a schedule pursuant to which such Tasks and Deliverables will be completed. Unless required for the successful transition of the Services, ~~as determined by Telmate~~, or required by law, Contractor shall not be compelled to disclose any Contractor owned intellectual property, including, but not limited to, trade secrets, work product or other proprietary information, to any third party as a part of any Transition Plan. ODOC will require any third party requiring access to execute a non-disclosure agreement approved by Telmate limiting the access and use of any Contractor intellectual property before any disclosure of Contractor intellectual property is permitted to occur.

2.4. The parties will cooperate in good faith with each other in connection with their obligations under this Section and will perform their obligations under the DOJ-approved Transition Plan. If the Transition Period extends beyond the Contract term, the provisions of this Contract will remain in effect for the duration of the Transition Period.

2.5. Contractor shall complete the transition of Services and ODOC information and data from Contractor and its subcontractors to ODOC and to any providers that ODOC designates, without causing any unnecessary interruption of or adverse impact on the Services.

2.6. Without limiting the generality of the aforementioned obligations, Contractor shall:

- Cooperate with ODOC and any ODOC-designated provider by promptly taking all steps required to assist ODOC in completing the Transition Plan.
- As set forth in the Contract, provide ODOC and any ODOC-designated provider with all information and data belonging to ODOC in a mutually agreed upon format.
- Promptly and orderly conclude all Services as ODOC may direct. This includes the documentation of work in progress, return of property, and other measures to provide an orderly transition to ODOC and any ODOC-designated provider.

3. As hereby amended, the Contract remains in full force. Contractor certifies that the representations, warranties and certifications in the Contract are true and correct as of the effective date of this Amendment with the same effect as though made at the time of this Amendment.

4. Certification. The individual signing on behalf of Contractor hereby certifies and swears under penalty of perjury: (a) the numbers shown below are Contractor's correct taxpayer identification; (b) Contractor is not subject to backup withholding because (i) Contractor is exempt

from backup withholding; (ii) Contractor has not been notified by the IRS that Contractor is subject to backup withholding as a result of a failure to report all interest or dividends; or (iii) the IRS has notified Contractor that Contractor is no longer subject to backup withholding; (c) s/he is authorized to act on behalf of Contractor, s/he has authority and knowledge regarding Contractor's payment of taxes, and to the best of her/his knowledge, that for a period of no fewer than six calendar years preceding the Effective Date of this Amendment, Contractor faithfully has complied with: (i) all tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (ii) any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor; (iii) any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (iv) any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions; and (d) Contractor is an independent contractor as defined in ORS 670.600; and (e) the supplied Contractor data is true and accurate.

Pinnacle Public Services, LLC, an Oregon limited liability company

By: 

Printed name: Kevin O'Neil

Title: President

Date: 1/10/2019

Federal tax identification number: 82-0516081

Oregon tax identification number: _____

Telmate, LLC, a Delaware limited liability company

By: 

Printed name: Jonathan Walker

Title: Executive Vice President

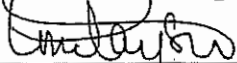
Date: 1/9/2019

Federal tax identification number: 27-0317304

Oregon tax identification number: _____

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The State of Oregon acting by and through the Department of Corrections



Toni Paysen, Designated Procurement Officer

1/17/19

Date

Approved for legal sufficiency under ORS 291.047 and OAR 137-045-0030 by Oregon
Department of Justice Assistant Attorney General by email dated 11/16/2018
291090, GF 1223-17

**ATTACHMENT #9 TO CONTRACT 3999
QUALITY PERFORMANCE PROGRAM AND
SERVICE LEVEL AGREEMENT**

Pursuant to the provisions of the Contract 3999, Contractor provides certain Services to Adults in Custody (AICs), including, but not limited to: provision of MP3/4 and tablets, music, messaging/photo receipt and delivery

The parties wish to establish a Quality Performance Program (QPP) and reporting process that will include the services as delivered to the AIC customers by Contractor and its sub-contractor, Access Corrections (AC). Fundamentally, a QPP is a means and method to clearly define, measure, monitor, report-out, and ultimately improve service performance when needed by a contractor (inclusive of any sub-contractors involved) to the sponsor. It is a commitment for regular communications and coordinated effort.

Contractor shall commence QPP reporting within ninety (90) calendar days from the Amendment Effective Date.

1) GENERAL CUSTOMER SERVICE EXPECTATIONS

- a) Contractor shall establish an efficient and effective, timely means to receive, catalog, track, and resolve AIC (customer) issues and concerns associated with services and products offered and sold.
- b) As issues may occasionally arise, the AIC (customer) has a responsibility to clearly describe the issue to Contractor, and Contractor shall provide a clearly understandable reply to the AIC to clearly describe a course of action to best resolve the issue in a timely manner. At the election of the Contractor, the AIC may directly contact the sub-contractor to report or investigate an issue, provided however, that the Contractor is responsible for evaluation and resolution of all issues. The Contractor shall manage and monitor the provision of the Services and its sub-contractor's customer service and quality performance to ensure it meets the provisions set forth herein as well as Contractor's standards.
- c) ODOC Program management will monitor customer service delivery performance by the contractor and its sub-contractors to ensure that the requirements of the base contract are satisfied. This is a unique operating environment in some ways, and to the extent necessary, ODOC staff will intervene with the AIC should the AIC communicate in an inappropriate or unprofessional matter with Contractor. It is expected that should that occur, Contractor (or its sub-contractor if engaged with an AIC in a direct communication) will announce that the interchange is inappropriate to the AIC, proceed to terminate that encounter, and then proceed to document the particulars of the event with the ODOC Telmate Contract Support Representative. The ODOC Telmate Contract Support Representative shall immediately contact ODOC staff to aid them in evaluating the event and offered documentation and take

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appropriate action.

- d) The ODOC AIC has the following modes to communicate with Contractor:
 - i) When dealing with the sub-contractor (AC) issues related to MP3/4 music, messaging and support KIOSK issues, the Contractor has elected to support by:
 - (a) Setting up a toll free number to support a direct phone call from the AIC to the sub-contractor (during stated service hours) for a live-contact call.
 - (b) Established a unique electronic form accessible on Contractor Tablets and Contractor KIOSKS that the AIC may use to report the sub-contractor (AC) issue without a charge to AIC's account.
 - ii) When dealing with services provided directly from the Contractor, the AIC is expected to use the "Help Request Form" as the first mode of contact. This is accomplished by using the Contractor's Kiosk or Tablet device to initiate a help request for a telephone or tablet issue (without a charge to AIC's account).
- e) When receiving an 'help request' from the AIC, Contractor shall open a Quality Deficiency Report (QDR) with a permanent tracking number assigned, capturing the relevant data and issue(s), assigned out to Contractor staff to begin the issue resolution efforts, Contractor shall track the issue until a satisfactory resolution is reached (agreeable to both customer and provider.) Contractor shall establish the initial reporting mechanism with the use of the 'help request' and track the issue(s) thru resolution. Contractor shall directly manage and oversee the response to assure:
 - i) Proper and timely acknowledgement back to AIC of issue receipt and either provide an appropriate responsive solution to the issue or provide the QDR tracking number back to the AIC within 1 business day from receipt of notification.
 - ii) The creation of a unique QDR issue / complaint ID tracking number for the item and its entry into a Quality Assurance logging system. That system will require an initial (and allow for subsequent updating if needed) issue characterization / cataloging, log and start an issue age timing clock (for response time tracking) as well as track those provider respondents ID and the issue responses / resolution efforts for transactional continuity.
 - iii) Contractor may transfer the response to the QDR / help / issue request to a sub-contractor (i.e.: Access Corrections) for more efficient handling, BUT that will not relieve Contractor from any obligation for assuring a timely QDR resolution and QPP response tracking to the AIC.
- f) Contractor shall create and publish regular weekly QPP reports to ODOC to show the following metrics:
 - i) Total number of QDRs (help/issue requests) received per reporting period, the resolution response time {* - estimated and actual dates / times for issue

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resolution} and a running accumulation to date along with the last 30 day running averages per ODOC site and overall – (detailed into categories of):

*- ‘Contractor Kiosk Issues’ {includes accumulated down time to 1/10 hour for each kiosk at each facility}

*- ‘Contractor tablet issues’ {categories to be defined by TELMATE as related to customer services delivered and unit / system availability / reliability}

* – ‘Contractor Phone issues’ {to include details on call drops, call mischarges, attempted /detected 3-way calls, low call quality complaints, number of non-operational ‘down’ phones {ok to break out dormant units if any} at each facility with accumulated down time, at a minimum }

*- ‘AC Kiosk issues’ {includes: accumulated down time to 1/10 hour for each kiosk at each facility, type/category of KIOSK data issues / errors}

* – ‘AC MP3/4/ handheld player issues’ {includes music / content loading issues, messaging/photo receipt and delivery issues, ordering issues & errors, player malfunction, security / ID issues, player performance issues – all broken out by player type}.

ii) These metrics may be published to Contractor’s web-site that ODOC uses to manage the phone and SNAP systems – in PDF or Microsoft EXCEL file formats – but it must be viewable / downloadable by ODOC.

iii) Problem category analysis must include: Pareto charting of issue type frequencies along with a total issue histogram by a monthly time period. QDR response time charts should be in control chart format with clearly defined tripwire and Upper Control Limit (UCL) shown. Other reports may be in tabular or graphic display as desired.

g) Contractor shall meet with ODOC at least once per month to review its performance. During regularly scheduled QPP meetings, the data and charts of paragraph 1.d above shall be discussed and reviewed for trends and areas of focus for improvement. Initially these QPP Meetings shall be monthly in periodicity between the Contractor account manager and the ODOC Program Management team – Contractor may elect to include any sub-contractors, as they may deem necessary.

2) Sub-contractor (AC) CONTENT & SERVICE DELIVERY

a) The goal for this element shall be 100% of effectiveness for the entire process at every ODOC location where Contractor or AC products are installed and established to provide service to AIC customers. This includes:

i) The purchase and delivery of song files all the way to the AIC’s Handheld Media device (Defined as and includes MP3, MP4, and any follow-on units)

ii) The quality, completeness, and playability of the music file is maintained across the purchase and delivery into the AIC Handheld Media device operating in normal working order.

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- iii) The ability for the AIC to restore / recover / reinstall already owned / previously purchased music files is preserved. This includes the proper storage by AC of the AIC's music files to assure they remain uncorrupted / undamaged
 - iv) The process and delivery of AIC communications (e.g.: electronic messages and photos) both to the AIC and to the recipients (ODOC screening processing not withstanding)
 - v) The advertised message length (5,000 characters per electronic communication transaction) is delivered and maintained with regularity
- b) The performance target for this area is as follows:
- (a) 95% performance for initial completed delivery to AIC's Handheld Media device operating in normal working order, within two (2) business days from receipt of purchase funds for songs and services*.
 - (b) For messaging and photos, the performance result also assumes the facility's approval of content within the time period.
 - (c) That the AIC successfully connected their handheld device to Contractor or AC KIOSK, after the necessary facility content approvals, but within the required time period.

3) AIC PROBLEM RESOLUTION - STEP 1:

- a) AIC may call the Sub-Contractor Remote Customer Care Assistance center during service hours to speak directly with a sub-contractor representative regarding the issue
- b) Sub-contractor provides corrective response or direction to AIC resolving the issue within one (1) business day.
- c) If the issue is not / cannot be resolved over the phone, AIC should move to step #2. The sub-contractor will file a notification of the trouble ticket with the Contractor to facilitate their tracking of the issue for resolution.

4) AIC PROBLEM RESOLUTION - STEP 2:

- a) AIC will use the Contractor Kiosk / TABLET system to write and submit an Electronic sub-contractor Help Request regarding the Handheld Media device issue.

Help Tickets must be entered by AIC only – outsiders friends and family members cannot perform this step nor should a contract provider accept / initiate such action.

- b) Sub-Contractor Customer Service Helpdesk - Shall receive and process the sub-contractor Help Request, initiate a QDR and action with the sub-contractor, and shall acknowledge to AIC customer those actions along with the QDR Tracking number within one (1) normal business day of receipt – and proceed to fully address and answer within seven (7) additional normal business days of receipt of the Sub-Contractor's form.. [see above Para # 1.b & 1.c]

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- c) Should the issue require some additional time to fully resolve beyond this seven (7) business day period, a direct communication will be made to the AIC (VM or E-communication) as to issue status and provide the AIC the assigned QDR tracking number. The QDR ticket shall remain open for the duration of efforts to resolve and address the identified issue and may only be closed upon direct AIC / ODOC concurrence that the issue has been fully resolved.

Contractor shall publish the QDR aging report and a frequency of request by AIC report as provided to ODOC on a weekly scheduled basis [see above Para # 1.d. The restriction on "Churning" shall not prohibit a process which includes closing a ticket once the problem is isolated and thereafter creating a ticket to solve the identified problem.

For purposes of this Amendment, "Churning" means the premature closure and opening of a new QDR for the purpose of artificially lowering the true measure of elapsed resolution time of the QDR to defeat the resolution time tracking feature is not to be permitted.

- d) Weekly QPP progress meetings between Contractor and ODOC Project management shall occur at 1:00 P.M. Pacific Time, each Thursday for the first 60 days upon enactment of this SLA. With acceptable performance, these meetings may be collapsed into monthly Contractor QPP meeting.

5) PERFORMANCE TARGETS:

- a) 100% performance for initial acknowledgements within established time schedules from the time a trouble ticket is created. 95.0% performance for total resolution of 'non-major' issues within two (2) business days
 - i) 'Non-major' issues are handled by the Media Helpdesk Customer Service.
 - ii) 'Non-major' issues are defined as follows:
 - (1) General inquiry about songs – (i.e.: Song content not clear, wrong song, wrong artist, etc.) Sub-Contractor may review reducing music catalog offerings to remove edge artist/labels that have a high problem issue rates.
 - (2) General inquiry about mail and photos – (i.e. content approval, etc.)
 - (3) General inquiry about music kiosks
 - If kiosk concerns persist and cannot be resolved as a 'non-major' issue by the Media Helpdesk Customer Service, the incident shall be escalated to the Contractor Service Desk for further triage/resolution as a 'major' issue.
 - (4) Purchase Order tracking /errors
- b) 98.0% performance for total resolution of 'major' issues within five (5) business days
 - i) 'Major' issues are those handled by the Contractor or Sub-Contractor Service Desk.
 - ii) 'Major' issues are defined as a deficiency in core program functionality incidents.
 - (1) Song delivery to players.

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- (2) Messaging and photo delivery to players.
 - (3) Music Kiosk servers offline.
 - (4) Music kiosks offline.
 - (5) Problems experienced with subcontractor supplied networking – this excludes Contractor network equipment.
 - (6) Media file processing.
- c) 100% performance to attain total resolution of any / all issues within (10) business days

6) AC HANDHELD DEVICE RETURNS:

- a) All Handheld device returns are tracked starting with the creation of Return Authorization Record (RAR).
- b) Key tracking dates for this process include:
 - i) RAR issue date
(If RAR is issued to AIC prior to expiration of unit warranty period, unit repairs and /or replacement will be handled as under warranty protocols even should warranty expiration date occur prior to Contractor receiving shipment of unit. If originating reason for unit return started within unit warranty period but attempts at local remote repairs proved unsuccessful in resolving issue and return is requested / required by Contractor and RAR is issued, the return and repair / replace action shall be considered to be under the warranty.)
 - (1) When a Handheld device is broken prior to the release of an AIC, the AIC surrenders any ownership rights in any previously purchased goods and services.
 - ii) Date AIC delivers unit with RAR for shipping to ODOC staff, so long as this date is communicated to the Contractor or sub-contractor by ODOC through a mutually agreed upon method.
 - iii) Date Handheld Media device is received at Contractor facilities-
AIC shall receive notification of unit's arrival to Contractor facilities within one (1) business day. *Contractor has total of 10 business days from date of device receipt at Contractor facilities to review/repair/replace the product (ship out date) to the AIC.*
 - iv) Date unit actually starts the review / repair process within the Contractor facilities *if decision is made unit is beyond repair and will be / needs to be replaced – AIC shall be notified within one (1) business day – that action will trigger a three (3) business day grace period will be granted to allow for Contractor to AIC communications to occur for determine final resolution actions.)*
 - v) Date unit bench test confirms repair corrected reported issue(s). If the unit is not repairable, a notification of the inability of reparability (and reason) shall be provided to the AIC / or included within the return packaging.

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- vi) Date unit shipped out for return to ODOC for processing back to AIC.
- vii) Date AIC confirms problem resolution / unit functions properly
Should AIC fail to respond / indicate that provided effort(s) resolved the issue as identified within 30 days of shipment from AC facility, upon Contractor request ODOC Program Office can approve the close-out of that help ticket (which should be so annotated.)
- c) The performance target for this area is as follows:
 - i) 100% performance for initial acknowledgement to AIC of unit receipt within one (1) day of actual receipt at Contractor facilities
 - ii) 98% performance for total resolution of issues within ten (10) business days from receipt at Contractor or sub-contractor facilities as applicable
 - iii) Units that arrive undamaged under normal use that arrive at Contractor for a software re-flash will be completed within ten (10) business days. If player is not shipped back to ODOC within 10 business days of receipt, Contractor agrees to pay \$25.00-per-day-per-unit delay of service fine payable to ODOC which is separate from any other failure-to-perform based penalties that may be earned.
- d) PERFORMANCE TARGET INFORMATION:

The Performance targets herein are as they pertain to each ODOC facility individually. Should any related QPP parameter as identified above fall below /outside the listed threshold or any fraction thereof during the performance measuring period (defined as each calendar month), Contractor agrees to pay a QPP failure-to-perform penalty of \$500.00 for each category of failed performance at each ODOC site so impacted directly to ODOC no later than 25th of the month following the performance failure(s).

7) **KIOSK AVAILABILITY (Up-time)**

- a) Defined as the software/hardware being online and accessible through the network allowing session activity with the AIC customer and delivery of products and services. This section applies to all contractor and sub-contractor KIOSK units. A KIOSK is considered to be online and accessible only if all components (i.e.: all installed connection cables, internal drives, system connections, and monitor) as designed and installed are functioning to provide AIC access and operational use.
- b) Each individual KIOSK as installed at each DOC site location shall be uniquely identified, monitored, measured, and reported upon regarding to its operational availability to the ODOC ICS Program Manager thru the Contractor on a monthly basis. KIOSK availability percentage measures (to the 1/10th of an hour) shall be computed and reported out individually by location and aggregated for each individual ODOC site.

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Should KIOSK monthly availability metrics fall below an 80% performance level for two months out of six; the Contractor will replace that unit or install a secondary back-up unit in the same vicinity to minimize disruption to the local correctional operations.

The Contractor shall review and evaluate the KIOSK data reported and certify the ODOC institutional site KIOSK site availabilities, validate any claims for outside service interruptions and make any final adjustments when reporting to the ODOC Program manager no later than the 15th of each month for the preceding month of service.

- c) Contractor shall assure completion of all software service issues and hardware/kiosk service issues requiring repair/replacement within 48 hours business hours of notification. Any actions requiring longer periods must be identified and coordinated by the Contractor with ODOC ICS Program Management in addition to the impacted site management team to assure a timely restoration of services. Should instances occur where a longer timeframe is required to restore full service and function, subcontractors will confer and coordinate with the Contractor and ODOC ICS Program Management to provide a viable interim solution / workaround / mitigation within five (5) business days to get the system operational again, along with a root cause assessment indicting why a longer timeframe is needed and the expected complete time to restore the affected KIOSK to full capability and system functionality.
- d) The performance target¹ for this area is as follows
 - a. 100% performance for timely and appropriate notification of any and all scheduled system / KIOSK outages to allow for AIC notification of KIOSK non-availability. Planned outages / updates should be timed to occur during low /non-use hours for the ODOC site if possible. Planned outages should last no longer than three (3) hours. Emergency outage causes must be documented and coordinated / shared with ODOC as soon as practicable to allow for facility pre-awareness.
 - b. 99% monthly site average for AC KIOSK performance up-time for those operating on a wired network solution
 - c. 98% monthly site average for AC KIOSK performance up-time for those operating on a non-wired network solution
 - d. 99% performance for total resolution of 'major' issues within 3 business days for sites that have multiple installed KIOSKs providing the same services resulting in restoring AC KIOSK to full system functionality. This requirement is reduced to two (2) calendar days for those ODOC sites that only have a single KIOSK providing service.
 - e. 95% performance for total resolution of 'non-major' issues within two (2) business days.

¹ Excludes all downtime caused by agency actions, as well as damage by AIC.

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- e) The performance target(s) herein are as they pertain to each ODOC facility individually. Should any related QPP parameter as identified above fall below /outside the listed threshold or any fraction thereof during the performance measuring period (defined as each calendar month), Contractor agrees to pay a QPP failure-to-perform penalty of \$500.00 for each category of failed performance at each ODOC site so impacted directly to ODOC no later than 25th of the month following the performance failure(s).

STATE OF OREGON



COVER PAGE

**Department of Administrative Services, Procurement Services, on
behalf of the Oregon Department of Corrections (ODOC)**

**ADULTS IN CUSTODY - COMMUNICATIONS
AND RELATED SERVICES**

Request for Proposal (RFP)

RFP #DASPS-1476-18

Date of Issue: November 29, 2018

Closing Date: January 30, 2019, 1:00 PM PT

Single Point of Contact (SPC): John Anglemier, State Procurement Analyst

Address:	1225 Ferry St. SE
City, State, Zip	Salem, OR 97301
Phone (voice)	(503) 378-4650
E-mail:	john.anglemier@oregon.gov

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SECTION 1: GENERAL INFORMATION

1.1 INTRODUCTION

The State of Oregon, acting by and through the Department of Administrative Services, Procurement Services ("DAS PS") on behalf of the Oregon Department of Corrections, ("Agency"), is issuing this Request for Proposal for a solution to support the Agency's inmate communication and electronic entertainment requirements, including hardware, software, training, and related services, to ensure uninterrupted inmate communication services across the fourteen (14) Agency correctional facilities.

The current Inmate Communication System (ICS) provides inmate communication and electronic entertainment services fundamental to helping facility staff manage the housed Adults in Custody (AIC) populations. The current system provides AICs with communication capabilities including telephone calls, video interactive phone calls, electronic messaging, as well as streaming of approved entertainment content and educational options. Agency staff controls access to these features by individual AIC, device, or blocks of devices, and by phone number. The system includes additional functional security capabilities to support the Office of the Inspector General in pursuing the office's oversight of misconduct.

This solicitation is for the replacement of the current ICS. Improvements are expected to be gained as a result of the changing communication and entertainment market while leveraging advancements in inmate communication technologies and services available in the industry. With the substantial expansion of ICS communication activity, the Agency has also recognized a need for an increase in ICS resources to manage, process, and handle information derived from the growing volume of communication created through the ICS. The ICS Program Management Office (PMO) also has identified this solicitation as an opportunity to improve security monitoring capabilities and operational support functionalities to improve the administration of ICS security and services. And, the Agency has defined a new financial model to better support the State's desire for functional transparency.

Award of Contract. The State intends to enter into one Contract with the selected Proposer substantially in the form attached to the RFP as Attachment A. The initial term of the Contract is anticipated to be 3 years with options to renew. Additional details on the Scope of the goods or services or both are included in the Scope of Work/Specifications section.

1.2 SCHEDULE

The table below represents a tentative schedule of events. All times are listed in Pacific Time. All dates listed are subject to change.

Event	Date	Time
Pre-Proposal Conference	Dec. 11, 2018	1:30 PM
Questions / Requests for Clarification Due	Dec. 17, 2018	5:00 PM
Answers to Questions / Requests for Clarification Issued (approx.)	Dec. 20, 2018	
RFP Protest Period Ends	Dec. 28, 2018	5:00 PM
Closing (Proposals Due)	January 30, 2019	1:00 PM
Presentations, Demonstrations, or Interviews (approx.)	TBD	
Onsite Visits (Agency to visit Proposer's existing account(s))	TBD	
Issuance of Notice of Intent to Award (approx.)	April 18, 2019	
Award Protest Period Ends	7 calendar days after Notice of Intent to Award	

1.3 SINGLE POINT OF CONTACT (SPC)

The SPC for this RFP is identified on the Cover Page, along with the SPC's contact information. Proposer shall direct all communications related to any provision of the RFP only to the SPC, whether about the technical requirements of the RFP, contractual requirements, the RFP process, or any other provision.

SECTION 2: AUTHORITY, OVERVIEW, AND SCOPE

2.1 AUTHORITY AND METHOD

DAS PS is issuing this RFP pursuant to its authority under ORS 279A.050(2) and OAR 125-246-0170(2).

DAS PS is using the Competitive Sealed Proposals method, pursuant to ORS 279B.060 and OAR 125-247-0260. DAS PS may use a combination of the methods for Competitive Sealed Proposals, including optional procedures: a) Competitive Range; b) Discussions and Revised Proposals; c) Revised Rounds of Negotiations; d) Negotiations; e) Best and Final Offers; and f) Multistep Sealed Proposals.

2.2 DEFINITION OF TERMS

For the purposes of this RFP, capitalized words are defined in OAR 125-246-0110 or as defined below.

The following definitions do not necessarily apply to the proposed Contract for Communications Services and Products attached to this RFP as Attachment A ("Sample Contract").

"AIC" means Adults in Custody

"CJIS" means Criminal Justice Information System

"Electronic Entertainment" means games, videos, and other services provided over an electronic device intended to entertain the user.

"F&F" means Family and Friends

"FCC" means Federal Communications Commission

"ICS" means the Inmate Communication System

"IG" means Inspector General

"OSCIO" means Office of the State Chief Information Officer

"VIP" means Video Interactive Phone

2.3 OVERVIEW

2.3.1 Overview and Background

The Agency is responsible for fully managing adults remanded to the state for correctional and custodial care extending beyond a period of one (1) year. The Agency's mission is to promote public safety by holding offenders accountable for their actions and reducing the risk of future criminal behavior.

The Agency views communication and certain electronic entertainment and educational capacity and capability as a critical component towards advancing the mission of reducing the risk of future criminal behavior and promoting the safety of both AICs and Agency staff. A robust and reliable communications system directly enhances the Agency's ability to achieve its mission as directly related to the ability, frequency, and quality of communications of an AIC with their Family and Friends (F&F) outside of custody. The Agency partially fulfills its mission to connect AICs with their F&F through the ICS. The ICS serves fourteen (14) facilities and over 14,500 AICs across the State of Oregon providing access to many modes of communication including, electronic messaging, video interactive phone calls, music services, entertainment, education, and telephony services. See attachment L1-14 for facility information. Further ODOC Facility Target Hardware Information and ODOC ICS Usage History are contained in Attachments J and K.

2.3.2 Project Overview and Background

Currently, the Agency oversees and manages a state contract with a third-party vendor providing communications services which is set to expire on June 30, 2020. Inmate communications have seen a progression of technology, device, and services. Basic services started with standard land-line phones and then moved into VOIP based services, and video telephone. The State added multi-purpose kiosks in 2013, which introduced video interactive phone calls and messaging service elements. In 2016, tablets were added into the service suite to introduce curated and restricted access into the internet bringing higher level of accessibility and convenience to the AICs, along with a near-instant messaging capability, a new level of entertainment access in the form of movies, games, and a platform for the Agency to build and deliver educational content upon.

The introduction of tablets increased system accessibility by increasing the number of devices available by 145%. Employing a wireless solution allows the devices to be configured to be more widely deployed across the institution and broadens the operational functionality for Agency staff as well. AICs are now permitted to use these devices in the comfort of their cells and the Agency staff retain the capability to monitor and regulate accessibility in a more efficient manner.

The volume of devices combined with portability has created an expansion in use of the ICS, particularly in the volume of messaging activity. The current ratio is one table per eleven (11) AICs. In assessing the future needs and Agency intent, the goal is to further expand the deployment of these communication devices to achieve a one tablet per seven (7) AICs under the new contract.

Consumption of services available through the ICS outlets has grown by 400% over the past several years from under 250,000 communication events per month in 2012, to now over 1 million communication events in a single month in 2018. These large volume increases in communications introduce two attendant changes. First, the number of customer support (AIC & F&F) issues has grown relative to the increased use of the system. Secondly, the ICS surveillance mechanism for detecting inappropriate communications has become strained and simply has not kept pace with the volume and thus increased the potential for inappropriate use of the ICS.

2.4 PURPOSE

The primary goal of this procurement is to acquire a comprehensive solution for inmate communication and related services (electronic entertainment and education), including, hardware, software, training, and services to support the Agency's inmate communication requirements and ensure uninterrupted inmate communication services across the fourteen (14) Agency correctional facilities. Additionally, the Agency wishes to capture enhanced capabilities and lay a foundation for subsequent improvements related to systems and services supporting inmate communications.

The current ICS system usage and AIC population have increased. There is a need to review, assess, and make improvements to the current ICS system in order to support the growing diversity and future needs of the ICS composite customer based including AIC, F&F, and Agency staff. Identified changes and business drivers for the new ICS solution include the following:

- Replace the current ICS with a robust system capable of supporting the growing diversity and future needs of the Agency, AICs, and F&F and capable of evolving to provide services and products resulting from changes and growth in technology
- Define a new financial model for administration of the ICS solution which offsets Agency incurred cost for staffing and entertainment features for AICs as set forth in section 3.4.13.
- Reduce overall service costs for ICS users
- Enhance system features to support process automation and lower operational costs
- Improve Agency support capabilities in retraining of AIC for re-introduction into society
- Support and manage the increased AIC usage of communication devices
- Improve both system investigative and data analytic tools
- Transfer other supported applicable Inmate Services onto a tablet platform for improved accessibility
- Improve tablet access and availability to better support expected demand growth of tablets

2.5 SCOPE OF SERVICES

The scope of this RFP is to provide a turn-key solution for inmate communications and related services, including hardware, software, and support services for telephones, video kiosks, and tablets to support AIC phone calls, interactive video phone calls, electronic messaging, music services, entertainment, and education. The solution must support Agency administrative functionalities for the Agency staff to manage and monitor communication devices and communication activities.

The scope of this procurement includes the following:

- Inmate communication services and equipment/devices, for communications, entertainment, and education
- Hardware, including network and equipment/devices
- Software
- Installation of all hardware and software
- Operation, maintenance and support services for all hardware, equipment/ devices, and software, subject to all security requirements
- Migration of legacy data See section 3.4.10
- Training

The solution must address the following:

- The new ICS software, hardware, and services must support communication services to approximately 14,500 adults in custody and their friends and family across Oregon's fourteen (14) correctional facilities.
- The Proposer is responsible for all costs associated with the new ICS, including purchase of all equipment and devices; installation of the new ICS; providing the

voice and data networks and transmission; maintenance of the new ICS; repair and/or replacement of all equipment and devices; training, initial and ongoing; support for Agency staff; and day-to-day operation across the network, including all fourteen (14) correctional facilities. The Agency shall have no responsibility for any costs associated with the system.

- The Proposer is responsible for all software requirements across all fourteen (14) facilities. The new ICS software, hardware, and services must be fully installed, functionally tested, and placed into unrestricted operation before the expiration date of the current ICS contract June 30, 2020.
- The procured ICS services must include electronic messaging, video phone calls, music services and entertainment, education, and telephony services.
- The fourteen (14) facilities currently have inside wiring. However, the Proposer must determine if the wiring is adequate, and if not, the selected Proposer must replace all wiring.
- The Proposer will be responsible for all costs associated with the conversion of service from current inmate telephone system provider to the successful new service provider.
- The Proposer shall coordinate all details of switching out services with the current provider across all fourteen (14) correctional facilities. The Proposer must work with the current provider to coordinate the transition and/or replacement of current system hardware, including removal of the equipment from correctional facilities.
- The proposed solution must comply with applicable federal and state laws, regulations, and State and Agency policies, procedures, and practices, including the Oregon Statewide Information Security Standards.
- The Proposer shall provide local service maintenance and replace hardware as required across all Agency facilities. The successful Proposer shall be responsible for all installation equipment and services by contracted deadline.

Detailed Agency ICS system functionality is documented in Attachment I-1 Mandatory Functionality and Attachment I-2 Desirable Functionality.

SECTION 3: PROCUREMENT REQUIREMENTS AND EVALUATION

3.1 MINIMUM REQUIREMENTS

To be considered for evaluation, a Proposal must demonstrate how the Proposer meets all of the minimum requirements of this Section 3.1. **Failure to provide any of the information or comply with any of the minimum requirements in this Section WILL result in rejection of the Proposal.** DAS PS reserves the right to determine which Proposals meet the Minimum Proposal Requirements of this RFP.

3.1.1 Proposer Minimum Requirements

Proposer must meet the following minimum experience requirements:

- Minimum of five (5) years of experience in providing phone and kiosk services to an agency with at least 14,000 inmates; and
- Minimum of 2 years of experience in providing tablets to AICS, which includes entertainment and programming devices; and
- Three (3) successful deployments to Adults in Custody of similar size and complexity as this Adults in Custody Communications and Related Services RFP, completed within the last five (5) years.

3.1.2 Key Person(s) Minimum Requirement

Proposer must employ or contract with personnel with the qualities and expertise described in Section 3.4.12. Proposer's Key Person(s) shall include at least one Project Manager, one Technical Manager, one Business and System Analyst, and one Technical Lead. If Proposer is Awarded a Contract, all of Proposer's Key Persons must be willing to undergo a background check and sign a confidentiality agreement prior to commencing work under the Contract in accordance with Section 9 of Attachment A (Sample Contract).

3.1.3 Compliance Requirements: Information Security Standards

Proposer must comply with all of the following minimum standards:

- Statewide Information Security Standards:
http://www.oregon.gov/das/OSCIO/Documents/infosecuritystandards_2009_12_final.pdf
- All applicable state and federal statutes and regulations regarding operation, software, and equipment ownership

3.1.4 Mandatory Functionality

Proposer must complete and submit the functionality worksheet attached hereto Attachment I-1. Failure to respond yes to any of the requirements will result in rejection of the Proposal.

3.2 MINIMUM SUBMISSION REQUIREMENTS

3.2.1 Proposal Format and Quantity.

Proposal should follow the format and reference the sections listed in the Proposal Content Requirements section. Proposal should address the Services and Products in general for the Contract and the specific Services requested for the Initial Project. Responses to each section and subsection should be labeled to indicate the item being addressed. Proposal must describe in detail how requirements of this RFP will be met and may provide additional related information.

Proposer shall submit its Proposal without extensive art work, unusual printing or other marketing materials not essential to the utility and clarity of the Proposal. Proposer shall submit an original hard copy of its Proposal on white 8 1/2" x 11" recycled paper and all other submittal requirements, with Attachment C- Proposer Information and Certification Sheet, bearing the Proposer's authorized representative's Signature, and 6 electronic copies on electronic media such as thumb drive or CD of the unredacted Proposal.

Proposer shall submit its Proposal in a sealed package addressed to the SPC with Proposer's name and the RFP number clearly visible on the outside of the package.

3.2.2 Public Record/Confidential or Proprietary Information.

All Proposals are public record and are subject to public inspection after DAS PS issues the Notice of the Intent to Award.

If a Proposer believes that any portion of its Proposal contains any information that is a trade secret under ORS Chapter 192.345(2) or otherwise is exempt from disclosure under the Oregon Public Records Law (ORS 192.311 through 192.478), **Proposer shall complete and submit the Disclosure Exemption Affidavit (Attachment B) with its Proposal, and Proposer shall submit a fully redacted version of its Proposal, clearly identified as the redacted version.**

Proposer is cautioned that financial information generally is not considered a trade secret or otherwise exempt under the Oregon Public Records Law. Identifying the Proposal, in whole, as exempt from disclosure is not acceptable. DAS PS advises each Proposer to consult with its own legal counsel regarding disclosure issues.

IF PROPOSER FAILS TO IDENTIFY THE PORTIONS OF THE PROPOSAL THAT PROPOSER CLAIMS ARE EXEMPT FROM DISCLOSURE, PROPOSER HAS WAIVED ANY FUTURE CLAIM OF NON-DISCLOSURE OF THAT INFORMATION.

3.2.3 Authorized Representative.

A representative authorized to bind Proposer shall sign the Proposal. Failure of the authorized representative to sign the Proposal may subject the Proposal to rejection by DAS PS.

3.3 [ROUND 1] PROCUREMENT PROCESS

3.3.1 Public Notice.

The RFP, including all Addenda and attachments, is published in the Oregon Procurement Information Network (ORPIN) at <http://www.orpin.oregon.gov>. RFP documents will not be mailed to prospective Proposers.

DAS PS shall advertise all Addenda on ORPIN. Prospective Proposer is solely responsible for checking ORPIN to determine whether or not any Addenda have been issued. Addenda are incorporated into the RFP by this reference.

3.3.2 Questions / Requests for Clarification.

All inquiries, whether relating to the RFP process, administration, deadline or method of award, contract terms and conditions, or to the intent or technical aspects of the RFP must:

- Be delivered to the SPC via email or hard copy
- Reference the RFP number
- Identify Proposer's name and contact information
- Be sent by an authorized representative
- Refer to the specific area of the RFP being questioned (i.e. page, section and paragraph number); and
- Be received by the due date and time for Questions/Requests for Clarification identified in the Schedule

3.3.3 Pre-Proposal Conference.

A pre-Proposal conference will be held at the date and time listed in the Schedule. Prospective Proposers' participation in this conference is **voluntary**. Prospective Proposers may attend either in person or via conference call.

The purpose of the pre-Proposal conference is to:

- Provide additional description of the project;
- Explain the RFP process; and
- Answer any questions Proposers may have related to the project or the process.

The pre-Proposal conference will be held at the General Services Building, 1225 Ferry St SE, Salem, Oregon, Mt. Mazama Conference Room on December 11, 2018 from 1:30 am – 3:30 pm PT.

The conference call in number is 1-888-363-4735, access code 8711464.

Statements made at the pre-Proposal conference are not binding upon DAS PS. Proposers may be asked to submit questions in Writing.

3.3.4 Solicitation Protests.

3.3.4.1 Protests to RFP.

Prospective Proposer may submit a written protest of anything contained in this RFP, including but not limited to, the RFP process, Specifications, Scope of Work, and the proposed Sample Contract. This is prospective Proposer's only opportunity to protest the provisions of the RFP, the process, Specifications, Scope of Work, and the proposed Sample Contract, except that Proposer may protest Addenda as set forth in Section 3.3.4.2.

Provided, however, *if a term or provision of the Sample Contract is marked as negotiable*, Proposer may submit exceptions to the negotiable terms and conditions of the proposed Sample Contract with its Proposal, as set forth in Section 5.4.

3.3.4.2 Protests to Addenda.

Prospective Proposer may submit a written protest of anything contained in an Addendum. Protests to Addenda, if issued, must be submitted by the date/time specified in the respective Addendum, or by 5:00 pm on the second Business Day after posting, if there is no date set in the Addendum, or they will not be considered. Protests of matters not added or modified by the respective Addendum will not be considered.

3.3.4.3 Protests must comply with all of the following:

- Be delivered to the SPC via email or hard copy
- Reference the RFP number
- Identify prospective Proposer's name and contact information
- Be signed by an authorized representative
- State the reason for the protest, including:
 - the grounds that demonstrate how the Procurement Process is contrary to law, Unnecessarily Restrictive, legally flawed, or improperly specifies a brand name; and
 - evidence or documentation that supports the grounds on which the protest is based
- State the proposed changes to the RFP provisions or other relief sought
- Protests to the RFP must be received by the due date and time identified in the Schedule
- Protests to Addenda must be received by the due date identified in the respective Addendum

3.3.4.4 Protest Response.

DAS PS will respond timely to all protests submitted by the due date and time listed in the Schedule. Protests that are not received timely or do not include the required information may not be considered.

3.3.5 Proposal Submission Options.

Proposer is solely responsible for ensuring its Proposal is received by the SPC in accordance with the RFP requirements before Closing. DAS PS is not responsible for any delays in mail or by common carriers or by transmission errors or delays or mistaken delivery. Proposals may be submitted as set forth below. Proposal submitted by any means not authorized will be rejected.

3.3.5.1 Submission through ORPIN

Submission through ORPIN is not allowed for this RFP.

3.3.5.2 Submission through Mail or Parcel Carrier.

The Proposal may be submitted through the mail or via parcel carrier, and must be clearly labeled and submitted in a sealed envelope, package or box. The outside of the sealed submission must clearly identify Proposer's name and the RFP number. It must be sent to the attention of the SPC at the address listed on the Cover Page.

3.3.5.3 Submission in Person

The Proposal may be hand delivered, and must be clearly labeled and submitted in a sealed envelope, package or box. The Proposal will be accepted, **prior to Closing**, during DAS PS normal Monday –Friday business hours of 8:00 am to 5:00 pm Pacific Time, except during State of Oregon holidays and other times when DAS PS is closed. The outside of the sealed submission must clearly identify Proposer's name and the RFP number. It must be delivered to the attention of the SPC at the address listed on the Cover Page.

3.3.6 Proposal Modification or Withdrawal.

Any Proposer who wishes to make modifications to a Proposal already received by DAS PS shall submit its modification in one of the manners listed in the Proposal Submission Options section and must denote the specific change(s) to the Proposal submission.

If a Proposer wishes to withdraw a submitted Proposal, it shall do so prior to Closing. Proposer shall submit a Written notice Signed by an authorized representative of its intent to withdraw its Proposal in accordance with OAR 125-247-0440. The notice must include the RFP number and be submitted to the SPC.

3.3.7 Proposal Due.

The Proposal and all required submittal items must be received by the SPC on or before Closing. Proposals received after the Closing will not be accepted. All Proposal modifications or withdrawals must be completed prior to Closing.

Proposals received after Closing are considered LATE and will NOT be accepted for evaluation. Late Proposals will be returned to the respective Proposer or destroyed.

3.3.8 Proposal Rejection.

DAS PS may reject a Proposal for any of the following reasons:

- Proposer fails to substantially comply with all prescribed RFP procedures and requirements, including but not limited to the requirement that Proposer's authorized representative sign the Proposal in ink.
- Proposer fails to meet the responsibility requirements of ORS 279B.110.
- Proposer has any undisclosed liquidated and delinquent debt owed to the State of Oregon.
- Proposer makes any contact regarding this RFP with State representatives such as State employees or officials other than the SPC or those the SPC authorizes, or inappropriate contact with the SPC.
- Proposer attempts to inappropriately influence a member of the Evaluation Committee.
- Proposal is conditioned on DAS PS' acceptance of any other terms and conditions or rights to negotiate any alternative terms and conditions that are not reasonably related to those expressly authorized for negotiation in the RFP or Addenda.

3.3.9 Opening of Proposal.

There will be no public Opening of Proposals. Proposals received will not be available for inspection until after the evaluation process has been completed and the Notice of Intent to Award is issued in accordance with OAR 125-247-0630. However, DAS PS will record and make available the identity of all Proposers after Closing.

3.4 [ROUND 1] PROPOSAL CONTENT REQUIREMENTS

Commented [KG1]: Outline

The Proposal must address each of the items listed in this section and all other requirements set forth in this RFP. Proposer shall describe the Services to be performed or the Goods to be provided or both. A Proposal that merely offers to provide the goods or services as stated in this RFP or fails to include all requested items may be considered non-Responsive to this RFP and will not be considered further. DAS PS reserves the right to determine if a Proposal is substantially in compliance with the provisions of the RFP.

3.4.1 Proposal Information and Certification Sheet. (Mandatory but not scored)

Proposer shall complete and submit the Proposal Information and Certification Sheet (Attachment C).

Failure to demonstrate compliance with Oregon Tax Laws and sign the Proposer Information and Certification Sheet may result in a finding of non-Responsibility.

3.4.2 Responsibility Determination. (Mandatory but not scored)

Proposers shall submit a signed Responsibility Inquiry form (Attachment E) with Proposal. DAS PS will determine if an apparent successful Proposer is Responsible prior to award and execution of the Contract.

At any time prior to award, DAS PS may reject a Proposer found to be not Responsible.

3.4.3 Executive Summary (Mandatory but not scored)

Proposer shall submit an Executive Summary that briefly describes how the proposed services address the high level solution that is described in Section 2.3 and the system functionality described in Attachment I-1 and I-2. The solution and system functionality forms the basis for a comprehensive yet succinct Executive Summary, not to exceed three (3) pages, that summarizes the proposed services, its distinctive features, and how it will fulfill the Agency's needs for the Project.

3.4.4 Financial Statement / Fiscal Stability (Mandatory and not scored)

Proposer must include a brief description of Proposer's experience with, and current strategies for, ensuring that Proposer conducts business in a fiscally responsible manner and remains financially solvent through the term of the proposed Contract. If Proposer is a corporation (as opposed to an individual): identify the staff or board members that have fiscal responsibilities; and include a copy of Proposer's last fiscal review or audit, or, if Proposer is a "new" business, include a copy of a business plan completed within the last year.

Proposer shall submit a statement relative to past performance on contracts and shall disclose any instances in which Proposer had a contract terminated for default during the past three (3) years and a description of the circumstances. Termination for default is defined as any termination of performance (other than mutual) due to Proposer's nonperformance or poor performance whether the issue was either (a) not litigated or (b) litigated and such litigation determined Proposer to be in default.

DAS PS will use the financial information submitted by Proposer in its determination of Proposer Responsibility.

3.4.5 Business Experience (Mandatory and Scored) 25 Points

Proposer shall provide a description of its organization and describe in detail the type and number of years of experience it has in providing the services required in this RFP. The State requires the Proposer have at least 5 years of experience providing Inmate Phone communication services with an agency of equal or larger size (see Section 3.1).

3.4.6 Security Controls and Security Statement (Mandatory and Scored) 25 Points

Proposer shall describe its technical security controls to protect information. In addition, the Proposal must contain a statement pertaining to security compliance and non-disclosure agreements. The statement must demonstrate Proposer's agreement that if awarded a Contract:

- Proposer and Proposer's staff providing the Services will submit to all security checks requested by the Agency, which may include any combination of fingerprinting, Oregon LEDS and FBI CJIS background checks, and comply with the following State of Oregon security standards:

State Information Security Standards viewable at:

<http://www.oregon.gov/das/OSCIO/Documents/2017%20ISO%20Standards%20Oregon.pdf>

- Proposer shall protect at all times State of Oregon and Agency's confidential information and sensitive material. Proposer will be required to sign a Security Addendum, non-disclosure agreement and any other agreements required for the protection of any and all information received or processed on its equipment from the State of Oregon.
- Proposer shall protect at all times State of Oregon and Agency's confidential information and sensitive material, and the State of Oregon and Agency's confidential information and sensitive material will not be accessed from, transmitted, or stored outside of the continental United States for any reason, including for any maintenance, support, disaster recovery, or data backup.

3.4.7 Project Samples (Mandatory and Scored)

30 Points

Proposer shall submit samples of three (3) projects within the last five (5) years that are similar to the scope of this RFP.

Proposer shall include the following:

- Contact information for the sample project customer. DAS PS may contact the project contact for additional information.
- The Project Samples shall include a sample of the Project Plan and Implementation Plan, implementation timeline and finance structure.
- A project overview for each reference including underlying project type, size, budget/financial methodology, duration, and objectives.
- A description of the results and value provided to the customer by Proposer and whether the services were accomplished within Proposer's original plan and schedule or needed to be revised (with succinct explanations for any revisions).

3.4.8 Statement of Work Project Plan and Project Management Plan (Mandatory and Scored) 200 Points

Proposer shall submit a Statement of Work and Project Plan based on the functionalities outlined in Section 2.5 and the Project Overview in Section 2.3.

The Statement of Work should be based on the following assumptions:

- Detailed response to Agency ICS functionalities as documented in Attachment I-1 Mandatory Functionality and I-2 Desirable Functionality.
- A Project Plan, including, at a minimum:
 - A work breakdown structure that depicts the major project phases across 14 facilities including, tasks and resulting deliverables, acceptance criteria and the associated completion timelines detailing any assumptions made in estimating the timeframes
 - Task Descriptions, the methods that will be employed to review, assess and report the risks identified.

- Any other functionality or considerations Proposer deems necessary.
- Project Management Plan that describes methods for communication and collaboration with the agency.

3.4.9 Migration Strategy and Plan (Mandatory and Scored)

80 Points

The Proposer shall submit a description of its migration strategy including the high-level task for the installation, utility coordination, cutover, and testing of the proposed hardware and software. Migration to the proposed solution must be installed in a manner and under a time-frame designed to minimize disruption of the normal functioning and security of the fourteen (14) Agency facilities across the State. The Proposer shall address in its proposal the issue of migration from the existing system to the system proposed to minimize or eliminate disruption of service. This strategy may include but not be limited to:

- Migration procedures
- Network service coordination requirements
- Software programming and preparation
- Facility and station equipment installation procedures
- System testing
- Deployment
- Security testing

3.4.10 Data Migration Strategy (Mandatory and Scored)

80 Points

The Proposer shall submit a description of its data migration strategy including the high-level tasks such as: data conversions, data cleansing, and data validation. Include any specific tools or procedures that might be used.

At the time of migration, the successful Proposer will convert and migrate the following data from the current solution to the proposed solution:

- Inmate identification information (date of birth, name, state identification number, housing location)
- Inmate pin numbers
- ODOC approved phone numbers
- Noncritical system data (photos, messaging, and forms)

3.4.11 Training Strategy and Plan (Mandatory and Scored)

50 Points

The Proposer will be responsible for initial and ongoing training of all ICS Agency support resources including but not limited to; facility staff, Inspector General's office, mailroom staff, located throughout the State and in some positions on 24-hour schedule. Appropriate training and support must also be supplied and made available for end users, including AICs and F&F.

The Proposer must submit a description of its training strategy including but not limited to details of the training topics, training delivery techniques and tools, and training support documentation that will be delivered to Agency.

3.4.12 Service Level Agreement including Escalation Plan (Mandatory and Scored) 60 Points

Proposer shall provide a Service Level Agreement that includes an escalation plan that details the call prioritization guidelines and names, titles, and contact information. Proposer shall describe key elements of the SLA including Description of services, Service standards and metrics, Service tracking and reporting, and periodic review and Change process.

3.4.13 Proposer Qualifications and Staffing

A Proposer shall demonstrate its qualifications to provide the Services. In the event Proposer does not clearly demonstrate that it meets the minimum qualifications, the Proposal may be rejected. Proposer is to provide an organizational chart that includes at a minimum the contract manager, project manager, and service technicians. If post implementation varies from the implementation team please specify at minimum the positions being provided in each model.

All Services provided under the Contract to be awarded under this RFP must be provided via facilities and by personnel located within the continental United States. Proposer networks and systems and Agency confidential information and sensitive material will not be accessed from, transmitted, or stored outside of the continental United States for any reasons, including for any maintenance, support, disaster recovery, or data backup.

3.4.13.1 Proposer References (Mandatory and Scored) 30 Points

Proposer shall provide only three (3) references from firms for whom the Proposer has provided the services identified in Section 2.5 of this RFP. Each of the References must have been from work provided within the last five (5) years similar to the proposed solution. It will be helpful, but not required, if references can also comment on the Key Person(s) identified in Proposer's Proposal.

DAS PS may check to determine if references provided support Proposer's ability to comply with the requirements of this RFP. DAS PS may use references to obtain additional information, determine Responsibility, break tie scores, or verify any information needed. DAS PS may contact any reference (submitted or not) to verify Proposer's qualifications.

Proposer shall send the Proposer Reference Check Form (Attachment G) to its references. Reference forms shall be completed by the reference, returned to the Proposer, and Proposer submits the reference with the Proposal.

3.4.13.2 Project Manager and Project Manager References (Mandatory and Scored) 15 Points

Proposer shall assign a Project Manager who is PMP certified. Proposer shall provide a current resume for the assigned Project Manager not to exceed 2 pages per resume.

Proposer shall provide only three (3) references from firms for whom the Project Manager has provided the services identified in Section 2.5 of this RFP. Each of the References must have been from work provided and completed similar to the proposed solution within the last five (5) years.

DAS PS may check to determine if references provided support Proposer's ability to comply with the requirements of this RFP. DAS PS may use references to obtain

additional information, break tie scores, or verify any information needed. DAS PS may contact any reference (submitted or not) to verify Proposer's qualifications.

Proposer shall send the Project Manager Reference Form (Attachment H) to its references. Reference forms shall be completed by the reference, returned to the Proposer, and Proposer submits the reference with the Proposal.

3.4.13.3 Other Key Persons (Mandatory and Scored)

30 Points

Proposer must identify other Key Persons and support personnel. Key Persons include: one Technical Manager, one Business and System Analyst, and one Technical Lead, qualified by number of years of experience, credentials and capabilities to deliver the requested services. Proposer will clearly indicate, preferably in spreadsheet format, what aspects of the project the Key Persons or staff will be involved in, what their roles will be, and the percentage of time they will be allocated exclusively to this project (clearly indicate when any person is not exclusively assigned to this project).

Proposer shall provide a current resume(s) for each Key Person that includes the names, years of technical experience, certifications, years' of professional experience, skills, and areas of expertise. Resumes are not to exceed 2 pages per Key Person.

3.4.14 Financial Methodology (Mandatory and Scored)

255 Points

Proposer shall cover all Agency incurred cost for staffing and designated entertainment features for AICs under its proposed financial model. Proposer shall submit a detailed Financial Methodology (Attachment D) that meets or exceeds the following:

- Agency estimates the State staffing expense for system security and management to be \$760,000.00 per quarter.
- Agency estimates that an entertainment tablet deployment of 2,224 (which assumes a 1:7 deployment ratio) with a \$115.00 entertainment pass through payment per device.

(Note: The Agency's goal is for phone cost to AICs to be no more than \$0.11 per minute.)

3.4.15 Desirable Functionality (Mandatory and Scored)

420 Points

Proposer must complete and submit the Desirable functionality worksheet set forth in Attachment I-2.

3.4.16 Value Added Services and Products (Optional and not scored)

Proposer may provide descriptions of additional products and services that Proposer is willing to provide Agency.

3.5 [ROUND 1] EVALUATION PROCESS

3.5.1 Responsiveness and Responsibility Determination

Proposals received prior to Closing will be reviewed for Responsiveness to all RFP requirements including compliance with Section 3.1, Minimum Requirements, and 3.4, Proposal Content Requirements. If the Proposal is unclear, the SPC may request clarification from Proposer. However, clarifications may not be used to rehabilitate a non-Responsive Proposal. If the SPC finds the Proposal non-Responsive, the Proposal may be rejected, however, DAS PS may waive mistakes in accordance with OAR 125-247-0470.

In accordance with OAR 137-047-0261(6)(a)(A), DAS PS may establish a Competitive Range of all Proposers who have made a good faith effort in submitting a Proposal in response to this RFP.

At any time prior to award, DAS PS may reject a Proposer found to be not Responsible.

3.5.2 Evaluation Criteria

Proposals meeting the requirements outlined in the Proposal Content Requirements Section 3.4 will be evaluated by an Evaluation Committee. DAS PS shall select members to serve on the Evaluation Committee; members may change in each Round.

Evaluators will assign a score for each evaluation criterion as set forth below.

The SPC may request further clarification to assist the Evaluation Committee in gaining a better understanding of Proposals. A response to a clarification request must be to clarify or explain portions of the already submitted Proposal and may not contain new information not included in the original Proposal.

3.6 POINT AND SCORE CALCULATIONS

Scores are the values assigned by each evaluator based on the total number of available points for each criterion. Points are the total possible value for each section as listed in the table below.

The SPC will average all scores for each evaluation criterion. The average score will be calculated by totaling the points awarded by each Evaluation Committee member and divided by the number of members for each criterion.

Points possible are as follows:

RFP Section	Description	Maximum Points Available
3.4.5	Business Experience	25
3.4.6	Security Controls and Security Statement	25
3.4.7	Project Samples	30
3.4.8	Statement of Work, Project Plan and Project Management Plan	200
3.4.9	Migration Strategy and Plan	80
3.4.10	Data Migration Strategy	80
3.4.11	Training Strategy and Plan	50
3.4.12	Service Level Agreement including Escalation Plan	60
3.4.13.1	Proposer References	30
3.4.13.2	Project Manager and Project Manager References	15
3.4.13.3	Other Key Persons	30
3.4.14	Financial Methodology	255
3.4.15	Desirable Functionality	420
ROUND 1 TOTAL POINTS POSSIBLE		1300
ROUND 2 POINTS POSSIBLE		
Demonstration (Optional)		500

ROUND 3 POINTS POSSIBLE	
Onsite Client Visits	1000
ADDITIONAL ROUNDS POINTS POSSIBLE	
tbd	tbd

3.7 Responsibility Determination

DAS PS will determine if an apparent successful Proposer is Responsible prior to award and execution of the Contract. Proposers shall submit a signed Responsibility Inquiry form (Attachment E) with Proposal.

At any time prior to award, DAS PS may reject a Proposer found to be not Responsible.

3.8 [ROUND 1] NEXT STEP DETERMINATION

The SPC will total the points awarded by each Evaluation Committee member for all of the scored evaluation elements and then compute an average of those scores for all Evaluation Committee Members in each Round.

Based on that score, DAS PS may determine there is an Apparent Successful Proposer at the conclusion of Round 1 evaluation, or DAS PS may conduct additional rounds of competition if in the best interest of the State. Additional rounds of competition may consist of, but will not be limited to:

- Establishing a Competitive Range
- Demonstrations
- Onsite Visits to Proposer's Client Locations
- Optional Interviews
- Best and Final Offers

3.9 [ROUND 1] COMPETITIVE RANGE

3.9.1 Competitive Range Determination.

If DAS PS elects to proceed to additional Rounds of Evaluations, the top three (3) highest scoring Round 1 Proposers will advance to the next Round. However, if there is a natural break in the scores, DAS PS, in its sole discretion, may increase or decrease the number of Proposers advancing to the next Round.

DAS PS will post a notice in ORPIN of the Competitive Range Determination for Round 1, which will include notice, if DAS PS determines it will conduct a Round 2 evaluation, of Proposers advancing to Round 2. DAS PS will also include in any such notice any evaluation criteria that may be used and submittal requirements that may be required in Round 2 procurement process that is in addition to those listed in Section 3.7.

3.10 [ROUND 2] PROCUREMENT PROCESS**3.10.1 Demonstrations (Optional)****500 POINTS**

DAS PS, in its sole discretion, may elect to conduct demonstrations in Round 2. If conducted, the scores from Round 1 will be carried forward to Round 2 and will be added to the Proposer's score in Round 2. DAS PS, in its sole discretion, may elect to bypass the Demonstrations and move directly into the Onsite Client Visits.

3.11 [ROUND 2] SUBMITTAL REQUIREMENTS

If DAS PS elects to conduct demonstrations and the State requires additional information, DAS PS will provide further details in the Notice of Competitive Range and in the demonstration letter, if applicable. Proposers in the Competitive Range invited to conduct a demonstration must have the Project Manager identified in response to Section 3.12 above present at the Round 2 Demonstration.

3.12 [ROUND 2] EVALUATION PROCESS**3.12.1 Evaluation Criteria**

Round 2 Proposers will be independently evaluated during the demonstration process by the members of the Evaluation Committee. Evaluators will assign a score for each evaluation criterion in the demonstration.

3.12.1.1 Demonstration

Each Proposer in the Competitive Range for Round 2 will be required to participate in a demonstration process of not more than four (4) hours in length. DAS PS shall conduct the demonstration as indicated in the demonstration notification letter of the time and date of the demonstration and all of the following will apply.

- All Evaluation Committee members will be responsible for evaluating the quality of the demonstration.
- Further evaluation criteria details will be provided to those Competitive Range Proposers offered demonstrations and will be included with the notification of time and date of the demonstration.
- The demonstration notification letter may include specific questions that will require answers during the demonstration process. These questions may also have scoring criteria associated with them
- Demonstrations shall include, but not necessarily limited to:
 - Proposer introduction – brief summary of Proposer's firm and proposed System.
 - Overview of Proposed System, project plan, timeline, and Proposer's expectations of Agency and State staff/project team.
 - Live demonstration of proposed System, tools, optional features, etc.
 - Questions and Answers during the demonstration regarding previous experience with projects similar to this Project, implementation, services, on-going support, and other questions

the Evaluation Committee determines relevant and appropriate to the RFP and Proposer's Proposal.

3.12.1.2 Ranking

The average score will be calculated by totaling the points awarded by each Evaluation Committee member and divided by the number of Evaluation Committee members for each criterion. DAS PS will add the scores from Round 1 to the Round 2 scores from the demonstration.

3.13 [ROUND 2] NEXT STEP DETERMINATION

DAS PS may determine there is an Apparent Successful Proposer at the conclusion of Round 2 evaluation, or DAS PS may conduct additional rounds of evaluation if in the best interest of the State. Additional rounds of evaluation may consist of, but will not be limited to:

- Establishing a Competitive Range
- Onsite Client Visits
- Best and Final Offer

3.14 [Round 2] COMPETITIVE RANGE

3.14.1 Competitive Range Determination (Optional)

If DAS PS proceeds with Round 3, the top two (2) highest scoring Proposers will advance to Round 3. However, if there is a natural break in the scores, DAS PS, in its sole discretion, may increase or decrease the number of Proposers advancing to Round 3.

DAS PS will post a notice in ORPIN of the Competitive Range Determination for Round 2, which will include notice, if DAS PS determines it will conduct a Round 3 evaluation, of Proposers advancing to Round 3. DAS PS will also include in any such notice any evaluation criteria that may be used and submittal requirements that may be required in Round 3 procurement process that is in addition to those listed in Sections 3.13 and Sections 3.14

3.15 [ROUND 3] PROCUREMENT PROCESS

3.15.1 Onsite Client Visits

1000 Points

DAS PS, shall conduct and score onsite client visits for those Proposers in the Round 2 Competitive Range Proposers progressing to Round 3 will be invited to participate in Proposer onsite client visits. Scores from Round 1 and Round 2 (if completed) will be carried forward to Round 3.

3.16 [ROUND 3] SUBMITTAL REQUIREMENTS

If Onsite Client Visits are held and require submission of additional information, further details will be provided in the Notice of Competitive Range and in the onsite client visit letter.

3.17 [ROUND 3] EVALUATION PROCESS

3.17.1 Evaluation Criteria

Round 3 Proposers will be independently evaluated during the Onsite Client Visit process by members of the Evaluation Committee. Evaluators will assign a score for each evaluation criterion listed below in this section. If additional criteria will be evaluated, details about such criteria will be provided in the Notice of Competitive Range and in the onsite client visit letter, if applicable. Any such additional criteria will be scored along with the criteria listed below in this section.

The average score will be calculated by totaling the points awarded by each Evaluation Committee member and divided by the number of Evaluation Committee members for each criterion.

3.17.1.1 Onsite Client Visits

Each Proposer in the Competitive Range for Round 3 will be required to participate in an onsite client visit process of not more than four (4) hours in length. DAS PS shall conduct the Onsite Client Visits as indicated in the Onsite Client Visit letter of the time and date of the visit and all of the following will apply:

- All Evaluation Committee members will be responsible for evaluation the quality of the Onsite Client Visit.
- Further evaluation criteria details will be provided to those Competitive Range Proposers offered the Onsite Client Visits and will be included with the notification of time and date of the visits.
- The Onsite Client Visits notification letter may include specific questions that will require answers during the onsite client visit process. These questions may also have scoring criteria associated with them.
- Onsite Client Visits shall include, but not necessarily limited to:
 - Live demonstration of proposed system, tools, optional features.
 - Questions and Answers during the onsite client visits regarding client's experience with the Proposer's implementation, services, on-going support, and other questions the Evaluation Committee determines relevant and appropriate to the RFP and Proposer's Proposal.

3.17.1.2 Ranking

The average score will be calculated by totaling the points awarded by each Evaluation Committee member and divided by the number of Evaluation Committee members for each criterion. DAS PS will add the scores from Round 1 and Round 2 to the Round 3 scores from the Onsite Client Visit.

3.18 [ROUND 3] NEXT STEP DETERMINATION

DAS PS may determine there is an Apparent Successful Proposer at the conclusion of Round 3 evaluation, or DAS PS may conduct additional rounds of evaluation if in the best interest of the State. Additional rounds of evaluation may consist of, but will not be limited to:

- Discussions and Interviews
- Best and Final Offer

3.19 RANKING OF PROPOSERS

SPC will rank all Proposers advancing through all rounds of evaluation. The SPC will total the final average score (calculated by totaling the points awarded by each Evaluation Committee member and dividing by the number of members) from all rounds of competition. SPC will determine rank order for each respective Proposal and Proposer, with the highest score receiving the highest rank, and successive rank order determined by the next highest score.

SECTION 4: AWARD AND NEGOTIATION

4.1 AWARD NOTIFICATION PROCESS

4.1.1 Award Consideration.

DAS PS, if it awards a Contract, shall award a Contract to the highest ranking Responsible Proposer based upon the scoring methodology and process described in Section 3. DAS PS may award less than the full Scope defined in this RFP.

4.1.2 Intent to Award Notice.

DAS PS will notify all Proposers in Writing that DAS PS intends to award a Contract to the selected Proposer subject to successful negotiation of any negotiable provisions.

4.2 INTENT TO AWARD PROTEST

4.2.1 Protest Submission.

An Affected Proposer shall have 7 calendar days from the date of the intent to award notice to file a Written protest.

A Proposer is an Affected Proposer only if Proposer would be eligible for a Contract for the Initial Project award in the event the protest was successful and is protesting for one or more of the following reasons as specified in ORS 279B.410:

- All higher ranked Proposals are non-Responsive.
- DAS PS has failed to conduct an evaluation of Proposals in accordance with the criteria or process described in the RFP.
- DAS PS abused its discretion in rejecting the protestor's Proposal as non-Responsive
- DAS PS evaluation of Proposals or determination of award otherwise violates ORS Chapter 279B or ORS Chapter 279A.

If DAS PS receives only one Proposal, DAS PS may dispense with the intent to award protest period and proceed with Contract Negotiations and award.

4.2.1.1 Protests must:

- Be delivered to the SPC via email or hard copy
- Reference the RFP number
- Identify prospective Proposer's name and contact information
- Be signed by an authorized representative
- Specify the grounds for the protest
- Be received within 7 calendar days of the intent to award notice

4.2.2 Response to Protest.

DAS PS will address all timely submitted protests within a reasonable time and will issue a written decision to the respective Proposer. Protests that do not include the required information may not be considered by DAS PS.

4.3 APPARENT SUCCESSFUL PROPOSER SUBMISSION REQUIREMENTS

4.3.1 Insurance.

Prior to execution of the Contract, the apparent successful Proposer shall secure and demonstrate to DAS PS proof of insurance coverage meeting the requirements identified in the RFP or as otherwise negotiated.

Failure to demonstrate coverage may result in DAS PS terminating Negotiations and commencing Negotiations with the next highest ranking Proposer. Proposer is encouraged to consult its insurance agent about the insurance requirements contained in Insurance Requirements (Exhibit C of Attachment A) prior to Proposal submission.

4.3.2 Taxpayer Identification Number.

The apparent successful Proposer shall provide its Taxpayer Identification Number (TIN) and backup withholding status on a completed W-9 form if either of the following applies:

- When requested by DAS PS (normally in an intent to award notice), or
- When the backup withholding status or any other information of Proposer has changed since the last submitted W-9 form, if any.

The Agency will not make any payment until the Agency has received a properly completed W-9.

4.3.3 Business Registry.

If selected for award, Proposer shall be duly authorized by the State of Oregon to transact business in the State of Oregon before executing the Contract. The selected Proposer shall submit a current Oregon Secretary of State Business registry number, or an explanation if not applicable.

All Corporations and other business entities (domestic and foreign) must have a Registered Agent in Oregon. See requirements and exceptions regarding Registered Agents. For more information, see Oregon Business Guide, How to Start a Business in Oregon and Laws and Rules. The titles in this subsection are available at the following Internet site:
<http://www.filinginoregon.com/index.htm>.

4.3.4 Responsibility Inquiry

Prior to award, the apparent successful Proposer shall be required to complete and submit Attachment E — Responsibility Inquiry.

4.3.5 Pay Equity Certification

If selected for award and the contract value exceeds \$500,000 and Proposer employs 50 or more full-time workers, Proposer shall submit to DAS PS a true and correct copy of an unexpired Pay Equity Compliance Certificate, issued to the Proposer by the Oregon Department of Administrative Services.

ORS279B.110(2)(f) requires that Proposer provide this prior to execution of the Contract.

4.3.7 Nondiscrimination in Employment

As a condition of receiving the award of a Contract under this RFP, the successful Proposer must certify, in accordance with ORS 279A.112 that it has in place a policy and practice of preventing sexual harassment, sexual assault, and discrimination against employees who are members of a protected class.¹ A contractor's policy and practice must include giving employees a written notice of a policy that both prohibits, and prescribes disciplinary measures for, conduct that constitutes sexual harassment, sexual assault, or unlawful discrimination.

4.4 CONTRACT NEGOTIATION

4.4.1 Negotiation.

After selection of a successful Proposer, DAS PS may enter into Contract negotiations with the successful Proposer.

By submitting a Proposal, Proposer agrees to comply with the requirements of the RFP, including the terms and conditions of the Sample Contract (Attachment A). The Sample Contract is **not negotiable with the exception of the provisions listed below**. The State may modify provisions of the Sample Contract, if such modifications are in the best interest of the State. Any subsequent agreed upon modifications or negotiated changes are subject to prior approval of the Oregon Department of Justice.

DAS PS is willing to negotiate the following provisions of the Sample Contract:

- Term and Renewal
- Statement of Work
- Description of Services and Products
- Performance Standards and Service Level Guarantees
- Reporting Requirements
- Compensation
- Indemnity
- Limitation of Liability
- Insurance

In the event that the parties have not reached mutually agreeable terms within 30 calendar days of the date of the Notice of Intent to Award, DAS PS may terminate Negotiations and commence Negotiations with the next highest ranking Proposer.

¹ Subsection 2(1)(b) of ORS 279A.112 defines the term "protected class":

(b) "Protected class" means a group of people that state or federal law protects from employment discrimination including, but not limited to, a group in which membership depends on an ascribed association or identification, or an individual's voluntary association or identification with other individuals, on the basis of one or more of these characteristics:

- (A) Race, color or ethnicity;
- (B) National origin;
- (C) Sex;
- (D) Gender, including actual or perceived gender identity;
- (E) Sexual orientation;
- (F) Disability;

SECTION 5: ADDITIONAL INFORMATION

5.1 CERTIFIED FIRM PARTICIPATION

Pursuant to Oregon Revised Statute (ORS) Chapter 200, DAS PS encourages the participation of small businesses, certified by the Oregon Certification Office for Business Inclusion and Diversity ("COBID") in all contracting opportunities. This includes certified small businesses in the following categories: disadvantaged business enterprise, minority-owned business, woman-owned business, a business that a service-disabled veteran owns or an emerging small business. DAS PS also encourages joint ventures or subcontracting with certified small business enterprises. For more information please visit <https://oregon4biz.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp?XID=6787&TN=oregon4biz>

If the Contract has potential subcontracting opportunities, the successful Proposer may be required to submit a completed Certified Disadvantaged Business Outreach Plan (Attachment F) prior to execution.

5.2 GOVERNING LAWS AND REGULATIONS

This RFP is governed by the laws of the State of Oregon. Venue for any administrative or judicial action relating to this RFP, evaluation and award is the Circuit Court of Marion County for the State of Oregon; provided, however, if a proceeding must be brought in a federal forum, then it must be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. Nothing herein shall be construed as a waiver of the State's sovereign or governmental immunity, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or of any defenses to Claims or consent to jurisdiction based thereon.

5.3 OWNERSHIP/PERMISSION TO USE MATERIALS

All Proposals submitted in response to this RFP become the Property of DAS PS. By submitting a Proposal in response to this RFP, Proposer grants the State a non-exclusive, perpetual, irrevocable, royalty-free license for the rights to copy, distribute, display, prepare derivative works of and transmit the Proposal solely for the purpose of evaluating the Proposal, negotiating an Agreement, if awarded to Proposer, or as otherwise needed to administer the RFP process, and to fulfill obligations under Oregon Public Records Law (ORS 192.311 through 192.478). Proposals, including supporting materials, will not be returned to Proposer unless the Proposal is submitted late.

5.4 CANCELLATION OF RFP; REJECTION OF PROPOSALS; NO DAMAGES.

Pursuant to ORS 279B.100, DAS PS may reject any or all Proposals in-whole or in-part, or may cancel this RFP at any time when the rejection or cancellation is in the best interest of the State or the Agency, as determined by DAS PS. Neither the State, DAS PS nor the Agency is liable to any Proposer for any loss or expense caused by or resulting from the delay, suspension, or cancellation of the RFP, award, or rejection of any Proposal.

5.5 COST OF SUBMITTING A PROPOSAL

Proposer shall pay all the costs in submitting its Proposal, including, but not limited to, the costs to prepare and submit the Proposal, costs of samples and other supporting materials, costs to participate in demonstrations, or costs associated with protests.

5.6 STATEWIDE E-WASTE/RECOVERY POLICY

If applicable, Proposer shall include information in its Proposal that demonstrates compliance with the Statewide E-Waste/Recover Policy effective July 1, 2012.

http://www.oregon.gov/das/Surplus/Documents/E-Waste/107-009-0050_E-WastePolicy_Final.pdf

5.7 RECYCLABLE PRODUCTS

Proposer shall use recyclable products to the maximum extent economically feasible in the performance of the Services or Work set forth in this document and the subsequent Contract. (ORS 279B.025)

5.8 PRINTING, BINDING, AND STATIONERY WORK

Except as provided in ORS 282.210(2), all printing, binding and stationery work, including the manufacture of motor vehicle registration plates and plates required to be affixed to motor carriers, for the State or any county, city, town, port district, school district, or other political subdivision, must be performed within the State.

80th OREGON LEGISLATIVE ASSEMBLY-2019 Regular Session

Enrolled Senate Bill 498

Sponsored by Senator GELSER, Representative WILLIAMSON; Senators DEMBROW, FREDERICK, GOLDEN, MANNING JR, RILEY, WAGNER (Presession filed.)

CHAPTER

AN ACT

Relating to telephone services provided to inmates; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 421.

SECTION 2. (1) The Department of Corrections may enter into a contract with an inmate telephone services provider in which the provider provides inmate telephone services or other inmate communications systems at the provider's cost and reimburses the department:

(a) For the department's internal and external costs to oversee and manage the inmate telephone services or communications system; and

(b) To pay third party providers.

(2) The department may not enter into a contract with an inmate telephone services provider that authorizes the department to receive a fee or commission for telephone services provided to inmates other than the reimbursement described in subsection (1) of this section.

SECTION 3. Sections 4, 5 and 6 of this 2019 Act are added to and made a part of ORS 169.005 to 169.677.

SECTION 4. (1) An inmate telephone service provider may not provide a fee or commission to a local or regional correctional facility, city or county for the provision of inmate telephone services other than a fee of five cents per minute or less, or other amount authorized by the Public Utility Commission by rule, for completed interstate, intrastate or international calls.

(2) The per-minute rate limits described in section 5 of this 2019 Act apply to the fee described in subsection (1) of this section.

(3) Any fee or commission received by a local or regional correctional facility, city or county under subsection (1) of this section must be deposited in the Inmate Welfare Fund Account, established under section 6 of this 2019 Act, of the city or county receiving the fee or commission, or of the city or county in which the correctional facility receiving the fee or commission is located.

(4)(a) A local or regional correctional facility, city or county that receives a fee or commission described in subsection (1) of this section shall prepare a quarterly report with the following information:

(A) A monthly accounting of the total revenue received from the inmate telephone service provider;

- (B) The total per-minute fees received;
- (C) The share of revenue received by the correctional facility, city or county; and
- (D) A detailed list of expenditures during the previous quarter from the Inmate Welfare Fund Account established under section 6 of this 2019 Act.

(b) The correctional facility, city or county shall make the report described in paragraph (a) of this subsection available to the public and shall place a link to the report on the website of the correctional facility, city or county.

(5) The Public Utility Commission may adopt rules to carry out the provisions of this section, including rules that authorize fees in an amount other than that described in subsection (1) of this section.

(6) As used in this section, "regional correctional facility" has the meaning given that term in ORS 169.620.

SECTION 5. (1) A local or regional correctional facility, city or county that issues a request for proposals to procure inmate telephone services shall:

- (a) Consider call quality as a primary consideration when evaluating proposals; and
- (b) Weight call quality at not less than 35 percent of the total weight that the correctional facility, city or county gives to all factors in the final evaluation of a proposal.

(2) A contract between a local or regional correctional facility, city or county and an inmate telephone service provider must include a requirement that the provider submit a monthly report to the correctional facility, city or county containing the following information for the previous month:

- (a) All revenue earned;
- (b) Any fees charged;
- (c) Any moneys paid to the correctional facility, city or county;
- (d) The number of completed calls;
- (e) The number of dropped calls; and
- (f) The number of complaints concerning call quality.

(3) A contract between a local or regional correctional facility, city or county and an inmate telephone service provider must comply with the following per-minute rate limits except as otherwise authorized by the Public Utility Commission by rule:

- (a) For local or regional correctional facilities with less than 350 beds:

- (A) \$0.21 per minute for prepaid intrastate and interstate calls.
- (B) \$0.25 per minute for collect intrastate and interstate calls.
- (C) \$0.50 per minute for international calls to Mexico or Canada.
- (D) \$0.67 per minute for all other international calls.

- (b) For facilities with at least 350 beds but less than 1,000 beds:

- (A) \$0.19 per minute for prepaid intrastate and interstate calls.
- (B) \$0.23 per minute for collect intrastate and interstate calls.
- (C) \$0.50 per minute for international calls to Mexico or Canada.
- (D) \$0.67 per minute for all other international calls.

- (c) For facilities with at least 1,000 beds:

- (A) \$0.17 per minute for prepaid intrastate and interstate calls.
- (B) \$0.21 per minute for collect intrastate and interstate calls.
- (C) \$0.50 per minute for international calls to Mexico or Canada.
- (D) \$0.67 per minute for all other international calls.

(4) A contract between a local or regional correctional facility, city or county and an inmate telephone service provider may not authorize the collection of any fee other than the following:

- (a) The fees described in section 4 (1) of this 2019 Act.
- (b) For a paper copy of a billing statement requested by a customer, a \$2.00 fee per statement or other fee authorized by the commission by rule.

(c) For electronic deposits of less than \$25.00, a deposit fee of \$1.50 or other fee authorized by the commission by rule.

(d) For electronic deposits of \$25.00 or more, a deposit fee of \$3.00 or other fee authorized by the commission by rule.

(e) For deposits facilitated by a live operator, a deposit fee of \$5.95 or other fee authorized by the commission by rule.

(5) Nothing in this section prohibits a contract from authorizing or collecting taxes or other fees required by law.

(6) The Public Utility Commission may adopt rules to carry out the provisions of this section, including rules that authorize per-minute rates and fees other than the rates and fees described in this section.

(7) As used in this section, "regional correctional facility" has the meaning given that term in ORS 169.620.

SECTION 6. (1) A city or county that maintains a local or regional correctional facility shall establish an Inmate Welfare Fund Account, separate and distinct from the general fund of the city or county. All moneys in the account may be expended only for inmate welfare and may not be used for regular inmate meals, inmate clothing, inmate medical care, facility maintenance or staff salaries, staff clothing or staff equipment.

(2) As used in this section:

(a) "Inmate welfare" means items or programs that enhance the lives of inmates, including but not limited to education programs, job training programs, drug and alcohol treatment programs, exercise equipment, televisions, cable subscriptions, electronic law library access, magazine subscriptions, books, board games, microwaves available for inmate use and meals or other foods provided for special events.

(b) "Regional correctional facility" has the meaning given that term in ORS 169.620.

SECTION 7. Sections 2, 4, 5 and 6 of this 2019 Act apply to contracts for inmate telephone services entered into, extended or renegotiated on or after the effective date of this 2019 Act.

SECTION 8. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect July 1, 2019.

Passed by Senate April 23, 2019

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 3, 2019

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2019

Approved:

.....M.,....., 2019

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2019

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Bev Clarno, Secretary of State